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THE OSNABURGH/ WINDIGO TRIBAL COUNCIL JUSTICE REVIEW COMMITTEE

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TAY BWAY WIN: TRUTH, JUSTICE AND FIRST NATIONS

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REPORT OF THE
OSNABURGH-WINDIGO
TRIBAL COUNCIL JUSTICE
REVIEW COMMITTEE

Osnaburgh Windigo Tribal Council
Justice Review Committee

July 31, 1990

The Hon. Ian Scott
Attorney General and Minister
Responsible for Native Affairs

Roy Kaminawaish
Chief, Osnaburgh First Nation

The Hon. Steven Offer
Solicitor General

Frank McKay
Chairman, Windigo Tribal Council

Dear Sirs:

We were appointed by you to review the administration of justice in four First Nations communities in the southern Windigo Tribal Council area and we have much pleasure in submitting herewith our unanimous report.

In the view of the Committee, the whole document should be printed in English and syllabics and widely distributed to federal, provincial and First Nations bodies, all of whom will have a vital part to play in implementing our recommendations. Action must encompass initiatives both within and beyond the Osnaburgh, Cat Lake, New Slate Falls and New Saugeen First Nations if these recommendations are to be effective.

Yours sincerely,

Alan Grant — Chair

Michael Bader — Member

Dennis Cromarty — Member

/jw

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Dennis Cromarty
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R E P O R T

OF

THE OSNABURGH-WINDIGO TRIBAL COUNCIL

JUSTICE REVIEW COMMITTEE

ALAN GRANT, CHAIR.

MICHAEL BADER, MEMBER.

DENNIS CROMARTY, MEMBER.

PREPARED FOR:

THE ATTORNEY GENERAL (ONTARIO)
AND MINISTER RESPONSIBLE FOR NATIVE AFFAIRS
THE SOLICITOR GENERAL (ONTARIO)

OSNABURGH FIRST NATION
WINDIGO TRIBAL COUNCIL

July 1990

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FOREWORD

I'm happy with the way I'm trying
really working at it,
to write down the truth

Ron Geyshick
Lac La Croix

From the poem "Truth", in Te Bwe Win: Truth, Stories of an Ojibway Healer
Summerhill Press, 1989, p.9

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A. INTRODUCTION

The Osnaburgh Windigo Tribal Council Justice Review Committee was established:

(1) to examine all aspects of past and present service delivery to Osnaburgh and the South Windigo communities in relation to policing and the adminstration of justice and related social services; and

(2) to make recommendations to the government of Ontario with respect to improved service delivery and co-ordination to Osnaburgh and the South Windigo communities in relation to policing, the administration of justice and related social services.

It was agreed that the First Nations involved in this mandate would be Osnaburgh, Cat Lake, New Slate Falls and New Saugeen (Savant Lake). All are situated in the Treaty No. 9 area of Northern Ontario, although some New Saugeen Nation members trace their lineage through Treaty No. 3 members. Full details of the terms of reference of the Committee appear in Section E.2. of the Report.

One of the incidents that preceded the setting-up of the Committee was the arrest of Stanley Shingebis, an Osnaburgh Band member, for being drunk in Pickle Lake. Stanley Shingebis became a quadriplegic between his arrest and release. The arresting officer, Constable Stephen Gjos of the Ontario Provincial Police, was charged with aggravated assault and acquitted in Provincial Court (Criminal Division). Subsequent discipline proceedings under the Police Act against Constable Gjos for neglect of duty resulted in his being reduced in rank (by one class of constable) for one year. This incident precipitated calls by First Nations organizations in Northern Ontario for an inquiry into how the criminal justice system impacts on First Nations people in that part of the province and, in meetings with representatives of the Province of Ontario, the terms of reference of this Committee were jointly agreed. Mr. Shingebis pursued a civil action for damages which was settled out-of-court for an undisclosed sum, the parties to the action having agreed to respect confidentiality.

In the view of the Committee, if the recommendations in this Report were to be fully implemented, incidents such as the Shingebis matter would not be so likely to be repeated.

It is impossible to examine how the justice system impacts on these First Nations communities without looking at the underlying issues and for this reason our Report deals with land, economic and social matters as integral parts of how the criminal justice system operates in this part of Northern Ontario. A similar dilemma, in determining an appropriate context for inquiries such as this, is currently being faced by a series of Royal Commissions in Australia dealing with the deaths of over 100 aboriginals while in police custody. A feature of the early reports of the Commissioners is a detailed examination of

the socio-economic circumstances of the deceased from birth to death, confirming for us the importance of such considerations.[1]

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[1]Commissioner J.H. Wootten, Royal Commission into Aboriginal Deaths in Custody; Report of the Inquiry into the Death of Thomas William Murray (1989); Report of the Inquiry into the Death of Malcolm Charles Smith (1989); Report of the Inquiry into the Death of Mark Wayne Revell (1990), Government Publishing Services, Canberra, Australia.

"It's been seven lifetimes since Europeans first arrived on the shores of North America. Our ancestors, of course, had already lived here for many thousands of years. But as early as that very first encounter, extraordinary events began to occur among us. That initial meeting touched off a shock wave that was felt by Indian people right across the continent. And is still felt to this day."

Tomson Highway

Geoffrey York, Foreword to The Dispossessed: Life and Death in Native Canada, Lester & Orpen Dennys, Toronto, 1989.

B. BACKGROUND

1. OVERVIEW

First Nations people had their own autonomous societies before the arrival of Europeans in Canada. These featured a variety of approaches including functional leadership and informal political structures. In addition, First Nations societies were economically self-sufficient having developed economies based on hunting, trapping, fishing and gathering. They were societies rich in traditions and cultural values with distinctive ways of defining justice and crime and specific institutions to implement these ideas. The notions of crime and punishment were and continue to be profoundly different than those in Euro-Canadian society. Imprisonment was never used by the Ojibway as a form of punishment. Only in the most extreme cases of community wrong-doing would a member of a band be banished from the community and even then for a limited time during which the individual could cleanse himself and renew his relationship to the Creator. To be sure, conflict within the community had to be resolved and was resolved through the use of traditional means, including sometimes a peacemaker. In no way could a traditional dispute resolution process such as a peacemaker be equated with a judge in the Euro-Canadian tradition. The names reflect the profound difference in the role.

The arrival of Europeans produced a profound effect on these societies and their way of life. One need only travel to the four First Nations communities involved in this Report to realize that the First Nations people have become the dispossessed - the fourth world.[2] Proud and capable people, they were able to survive under tremendous burdens in remote areas of what we now call Ontario for more than 10,000 years. They were able to survive, though not unscathed, the assimilationist policies of federal governments. What Euro-Canadians accept as commonplace for themselves and their children are absent from these communities: clean drinking water, proper housing, adequate sewage disposal, effective dental and medical care, relevant education and a viable basis for economic activity. Absent too is the hope that, under present circumstances, the First Nations people can share in the economic life of Canada. Above all, they are a people without an adequate land base. As one commentator has noted:

> "History demonstrates that there is a strong correlation between the loss of traditional lands and the marginalization of native people. Displaced from the land which provides both physical and spiritual sustenance, native communities are hopelessly vulnerable to the disintegrative pressure from the dominant culture.

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[2] Geoffrey York, The Dispossessed: Life and Death in Native Canada, Lester & Orpen Dennys, Toronto, 1989.

Without land, native existence is deprived
of its coherence and distinctiveness."[3]

Stripped of their land, some First Nations people are forced to exist in communities that are not viable and often the only reaction to situations of despair, poverty and powerlessness manifests itself in alcoholism, substance abuse, family violence and suicide to name but a few. Such responses may even be a "sane" reaction to these oppressive living conditions. It is a national shame and a calamity on our own doorstep.

While this Report addresses the justice system, it is but the flashpoint where the two cultures come into poignant conflict. The Euro-Canadian justice system espouses alien values and imposes irrelevant structures on First Nations communities. The justice system, in all of its manifestations from police through the courts to corrections, is seen as a foreign one designed to continue the cycle of poverty and powerlessness. It is evident that the frustration of the First Nations communities is internalized: the victims, faced with what they experience as a repressive and racist society, victimize themselves. In most cases, both victim and offender are First Nations people. They kill and injure each other and they kill and injure themselves, having a suicide rate several times the non-native average in Canada.

From an early contact with Europeans, where a large degree of interdependence existed, subsequent events have led to the continuing political, social and economic dominance by Euro-Canadian society with the concomitant effect on the First Nations people of loss of land, autonomy and culture. Euro-Canadian concepts of law, justice and society differ markedly from those of the First Nations and have clashed in a destructive way resulting in welfare dependency, chronic unemployment, social disintegration and crime.

The vast majority of First Nations offenders who are held in prison are ultimately there because they are either alcoholics or poor or both and share one commonality - their race. Principles of punishment are turned upside down. Instead of prison acting as a deterrent, the Kenora Jail and secure custody facility are looked upon as places where many native youths and adults wish to escape to rather than escape from. They provide meals, a bed, native programmes and, for youths, an opportunity to obtain or continue an education - a structured existence. In short, these places stand as a substitute for the community, providing stability and furnishing basic needs which are often lacking in their homes. It is not surprising then, that the First Nations population in the Kenora facilities appears very complacent.

Surely such a state of affairs suggests that there is something fundamentally wrong. It underlines the nature of the despair, poverty and powerlessness that exists in these communities, when incarceration is seen as a rational alternative. Of course, to get there, one has to commit an offence of such a nature that will result in a custodial sentence. Based on undisputed

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[3]Darlene M. Johnston, "Native Rights as Collective Rights: A Question of Group Preservation", Canadian Journal of Law and Jurisprudence, Vol. II, 1989, p.32.

statistics on the over-representation of First Nations people in prison, the Euro-Canadian system appears to be more than willing to accommodate such an objective.[4] Instead, what is surely called for are healthy, functioning, sustainable, communities where the aspirations of the First Nations people can be met.

The clash of the two cultures has been exacerbated by the attempts of the Euro-Canadian justice system to address the problems faced by the First Nations people. It lacks legitimacy in their eyes. It is seen as a very repressive system and as an adjunct to ensuring the continuing dominance of Euro-Canadian society. This is shown by the fact that, under present arrangements, the more Canadian society has prospered, the more the First Nations have been relatively impoverished both culturally and economically.

Any attempt to reform the justice system must address this central fact: the continuing subjugation of First Nations people. It commenced at sometime after contact, leading to the making of treaties - fundamental political, social and economic documents which were and continue to be used to the detriment of First Nations people. Much of what has occurred when treaties were signed and thereafter on treaty interpretation, stands as a stain on the honour of this country.

As Duncan Campbell Scott, one of the commissioners who negotiated Treaty No. 9 in 1905, has written:

> "To individuals whose transactions had been heretofore limited to computation with sticks and skins our errand must indeed have been dark. They were to make certain promises and we were to make certain promises, but our purpose and our reasons were alike unknowable. What could they grasp of the pronouncement on the Indian tenure which had been delivered by the law lords of the Crown, what of the elaborate negotiations between a dominion and a province which had made the treaty possible, what of the sense of traditional policy which brooded over the whole? Nothing. So there was no basis for argument."[5]

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[4]See for example, "Correctional Issues Affecting Native People", Correctional Law Review Working Paper No. 7, Solicitor General of Canada, Ottawa, February 1988.

[5]Duncan Campbell Scott, "The Last of the Indian Treaties", Tales of the Canadian North, Castle, a Division of Booksales Inc., New Jersey, 1984, pp.499-500. A more sceptical commentator than Commissioner Scott might have ended this peroration with the statement: "So there was no basis for agreement".

Commissioner Scott was not only frank in relation to the imbalance of understanding of the parties to the negotiation on the issue of aboriginal tenure, but was also equally frank on the nature of the promises that were made in respect of the traditional economic activities of the First Nations people. After explaining that $8 was to be paid to every man, woman and child and thereafter $4 each annually together with reserves of one square mile to every family of five, schooling for children and a "flag for the chief", he continues:

> "'Well for all this,' replied Missabay. 'We will have to give up our hunting and live on the land you gave us. How can we live without hunting?' So they were assured that they were not expected to give up their hunting grounds, that they might hunt and fish throughout all the country just as they had done in the past, but they were to be good subjects of the King, their great father whose messengers we were." (emphasis added)

In case it is claimed that the above are merely the inaccurate reminiscences of an old man, Scott's official letter accompanying Treaty No. 9 repeats that the above oral assurances were unconditionally given by the Commissioners. Notwithstanding these oral assurances, in the Treaty itself, the hunting, trapping and fishing clause was made subject to

> "such regulations as may from time to time be made by the government of the country, acting under the authority of His Majesty and saving and excepting such tracts as may be required or taken from time to time for settlement, mining, lumbering, trading or other purposes."

None of the First Nations signatories could read or write English. All signed with an "X" (the character in syllabics for "Christ"). Orally, the communication method of their culture, they were told something that it was in their interest to secure for themselves in the treaty. In writing, which they did not understand, they were purported to have agreed to things that were not at all in their interest. This is the basis of the mistrust which continues to this day in the Treaty No. 9 area of Northern Ontario and which directly affects all four of the communities involved in this Report.

Until relatively recently, this mistrust was fed by the extremely limited approach of the courts to the interpretation of treaty rights. A new dawn may, however, be approaching for First Nations with the decision of the Supreme Court of Canada in Sparrow v. The Queen (1990) where it was made clear that fairness to the First Nations is a governing consideration. Other important concerns were identified as the perceived effect of the treaty at the

time of its execution and the avoidance of sharp-dealing.[6] Future cases may go on to consider whether there was a basis for agreement at all.

A possible explanation for these Euro-Canadian dealings with the First Nations both at treaty-making and subsequently has been offered by Professor Kent McNeil in his encyclopedic study, Common Law Aboriginal Title as follows:

> "The general European attitude to indigenous people during the colonial period was notoriously ethnocentric. The proposition that in English law indigenous people of North America and Australia had the same rights to lands occupied by them as fee simple tenants with valid titles had to their cottages and gardens in England was probably beyond contemplation. Moreover, it was obviously not in the interest of the colonizers to formulate arguments that would tend to make acquisition of lands costlier and more difficult. Nor were the indigenous people themselves in a position to articulate claims on the basis of English law principles. The matter was simply not thought out in this way by any of the persons concerned."[7]

Recommendation

1. The main goal of all of these recommendations is to ensure that the four communities are healthy, strong and vibrant. This can be accomplished by identifying both general and specific objectives. The general ones must, in our view, include recognition of

(a) sovereignty;

(b) economically viable land bases; and

(c) the development of aboriginal justice systems, whether traditional or otherwise,

for the First Nations people who represent the vast majority of the permanent, long-term residents north of latitude 50°N in present day

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[6]Sparrow v. The Queen (unreported decision of S.C.C., released May 31, 1990) pp.23-24.

[7]Kent McNeil, Common Law Aboriginal Title, Clarendon Press, Oxford, 1989, p.301.

Ontario. Each of the federal, provincial and First Nations governments and the non-native and First Nations peoples in the South Windigo area has a vital role to play and must be committed to meeting these objectives. More specific objectives will also be identified throughout and will form the basis of additional recommendations.

2. THE SOUTH WINDIGO COMMUNITIES

In Ojibway, the word "reserve" literally translated means "leftover".

Osnaburgh

The Osnaburgh Reserve is an Ojibway community located approximately 315 kilometres northwest of Thunder Bay. It is presently situated on Highway 599, 35 kilometres south of the community of Pickle Lake. As of December 31, 1989 the on-reserve population was 737 occupying 18,697 hectares.

Osnaburgh suffers from a number of man-made calamities resulting from projects undertaken to provide electrical power and road access to non-native communities and mining installations. The first occurred in the mid-1930s. Originally, the community was located on Lake St. Joseph where there was good fishing, hunting and wild rice harvesting. It was relocated to a site 10 miles away because of flooding and the diversion of the Albany River to create a hydro-electric development at Rat Rapids. Electricity was not, however, supplied to the reserve. 650 acres of land were lost and the Band and each individual received small amounts of monetary compensation. In 1953, a 26 mile road (now Highway 599) was constructed from Doghole Bay through reserve lands to gold mines at Pickle Crow and Central Patricia. It appears that the Band was neither consulted nor compensated for the loss of this land. In neither case is there evidence that the Band received independent legal advice on its position. In 1959, the community was relocated to its present site on land abutting the highway. It is served by a nursing station which all parties agree is inadequate and must be replaced. In addition the Band operates one store on the reserve and one in Pickle Lake.

Seventy-five per cent of the residents live in a core area of approximately one-quarter square mile. Two other smaller communities are located on the highway at Doghole Bay and Ten Houses. Although all three settlements are on Highway 599, only the main Osnaburgh community is marked to show that pedestrians may be in the vicinity and has in place a speed limit reduction to 60 km/h from 80 km/h. Neither Doghole Bay nor Ten Houses is sign-posted to indicate that pedestrians can be expected and the speed limit, at both sites, is 80 km/h. Since there are no sidewalks, children cycle upon and walk up and down the highway between the three settlements. Current signposting along Highway 599 gives no warning of these facts.

Forty per cent of the population is between the ages of 0 - 14 years. Over fifty per cent of the population lives on welfare and ninety-seven per cent of the community is not in full employment. Members of the reserve practice an indigenous lifestyle including hunting, trapping, fishing and gathering. The small lake that borders one side of the community is only eight feet deep and has been showing signs of dying for many years.

The school on the reserve provides education from Grades 1 - 8. Only 65% of the students enrolled there actually attend. With forty to fifty

years of access to education, Osnaburgh claims to have produced only three male high school graduates: one in 1968 and two in the mid-1980s.

Because the community is located on the highway, it has become accessible to non-native communities and as a result alcohol has a devastating effect on the community. The social problems are myriad in nature: unemployment, welfare, boredom, alcohol and substance abuse, suicide and attempted suicides, family violence, family breakdown, child neglect and absenteeism from school. In recent years the community has suffered from gang activity which has resulted in assaults, homicides and arson. Not surprisingly, all of the above have led to feelings of fear, tension, stress and depression in the community.

The obvious causes of such social conditions are equally legion: acute housing shortage, poor housing and over-crowding, lack of clean drinking water and sewage facilities, inadequate health care, lack of counselling, poor educational arrangements, and inappropriate judicial and police services. But the underlying cause of all of these is rooted in the lack of a viable land and economic base.

Cat Lake

The Cat Lake Reserve is an Ojibway community located 179 kilometres north of Sioux Lookout on the north shore of Cat Lake. Apart from boats and ski-doos, access is by way of aircraft using the gravel airstrip or skis or floats on the lake. The population consists of 415 Band members who reside on 280 hectares. Most members of the reserve formerly belonged to the Osnaburgh Band and the community still has family ties with Osnaburgh and New Slate Falls.

Located on the reserve is a school and a nursing station, the only facilities with water and sewage. In addition, there is a Hudson's Bay store in the near vicinity.

Residents maintain a traditional lifestyle with emphasis on hunting, trapping, fishing and wild rice harvesting. Sometimes the residents act as guides for non-native camp operators and as part-time firefighters and tree planters.

Although Cat Lake suffers from the absence of clean drinking water and sewage facilities, and has poor housing and high unemployment, the community does not appear to have the same degree of social disintegration as is found at Osnaburgh. This has resulted in part from a lack of road access which limits the ease with which alcohol and drugs can be acquired in the community. However, the lack of road access may also have a negative effect; for example, it makes it very difficult for members of the Cat Lake community to take advantage of non-traditional economic opportunities at gold mines in the area.

Cat Lake Reserve occupies a very small area for the population which it is attempting to support. It requires a greatly expanded land base in order to encourage the pursuit of traditional economic activities and to act as a

buffer against resource development which could damage the habitat supporting such activities.

New Slate Falls

New Slate Falls is an Ojibway community of 122 members occupying the north shore of North Bamaji Lake, 122 kilometres northeast of Sioux Lookout. Some members claim that their ancestors have been located at this lake for at least 200 years while others have come more recently from Osnaburgh. It is not a reserve under the Indian Act of Canada; but, has sought and continues to seek such status. Apart from boats and ski-doos access is by way of float or ski-equipped aircraft only.

The houses lack water and sewage disposal. Education is for elementary school only. Members of the community practice a traditional lifestyle with hunting, trapping, fishing and some harvesting of wild rice. A hydro-line passes within a few hundred metres of the community; but power from this source has not been made available to it.

The community is very poor, lacking many of the basic requisites of public health. Major policing and wildlife enforcement problems do not occur with any degree of regularity.

New Saugeen

New Saugeen is an Ojibway community of 128 members, most of whom live in the unincorporated community of Savant Lake. Prior to receiving official Band status, in April 1985, members were mostly members of the Osnaburgh or Lac Seul Bands. New Saugeen is not a reserve under the Indian Act of Canada; but the community has sought and continues to seek reserve status for a reserve to be located on the southeast shore of Kashaweogama Lake some distance to the north of their present location.

On April 4, 1986, the Ministry of Natural Resources issued a "letter of authority" to the Department of Indian and Northern Affairs to permit a reserve to be established. This land was to form a core development area for the proposed new reserve. The Department of Indian and Northern Affairs authorized the New Saugeen Nation to carry out limited development in this core area. However, in June 1987, the Minister of Indian and Northern Affairs announced that he would not establish any new First Nations reserves other than for natural disasters or outstanding legal obligations. The local offices of the department then confirmed that negotiations for a new reserve at Kashaweogama would not proceed.

Band members practice a traditional way of life with trapping, fishing, hunting and some wild rice harvesting. Controversy has arisen over treaty hunting and fishing rights. For those Band members who trace their lineage to the Lac Seul Band, the operative treaty is Treaty No. 3, while for those who trace their ancestry to Osnaburgh, the appropriate treaty is Treaty No. 9. In the view of the First Nations, if Treaty No. 3 and Treaty No. 9

adherents can agree to accord certain reciprocal rights to each other at the boundary, it should be inappropriate for conservation officers to interfere by laying charges against a New Saugeen Nation member for hunting or fishing on the "wrong" side of the treaty boundary line.

Because many of the members reside in the unincorporated community of Savant Lake, there are many frictions with the non-native residents. This has to some extent been exacerbated by an absence of on-site policing. The O.P.P. detachment at Ignace is not very well situated to provide preventive policing patrols as opposed to necessarily delayed responses when incidents actually occur since the detachment is located a two-hour drive away from Savant Lake.

A recent initiative, building a small sawmill to supply community needs for timber and to fill contracts for support-beams required by two gold mines in the area, has fallen into difficulty over a Ministry of Natural Resources demand that the Band members "clear-cut" the part of the forest that they have been obliged to seek authorization to harvest. The practice of "clear-cutting", used by large-scale forestry operations, is not one that is favoured by First Nations members who feel that it is detrimental to hunting and trapping in the area. They prefer to log in a selective manner, avoiding "clear-cutting"; but, this is directly contrary to current Ministry of Natural Resources policy.

As in the case of treaty-boundary problems, it is perceived that provincial policies fail to take account of First Nations traditional ways and the enforcement of such policies once again underlines the powerlessness of First Nations to seek solutions to their problems under present land use regimes.

3. LAND AND ECONOMIC DEVELOPMENT

Land

A review of the literature, which is summarized later in Section E.1. of the Report, shows unanimous agreement on the poor socio-economic conditions of the First Nations people and considerable agreement on solutions. In the view of the Committee, however, insufficient attention has been paid to the most crucial underlying problem of all, which goes to explain all or most of the other problems: the absence of a secure and economically viable land base for First Nations communities. At this time, neither New Slate Falls nor New Saugeen has a secure land base. Cat Lake is situated on a highly inadequate land base and Osnaburgh is situated on a site that is not conducive to a healthy community and needs to be relocated to a more congenial location of its own choice.

The present location of Osnaburgh, to quote Chief Kaminawaish, "is a location in which no native would choose to live". The artificial gathering of diverse clans into "communities" using a Euro-Canadian model has resulted in a loss of identity, with the people being separated from both land and water. Accordingly, in his view, the reserve ought to be relocated:

> "Our original community on Lake St. Joseph was built on land that had much better soil and abundant timber. Locating to our original site would require about 2 miles of road access off the highway. Our Elders and many of our young people wish to relocate to Lake St. Joseph and the Band Council wants the choice of where to live in that area to be theirs. Living by a clean lake offers the pursuit of our traditional skills of hunting, fishing and trapping without so much dependency on transportation. These skills are necessary to teach our males, to help them regain their sense of Indianness, their sense of maleness and personal identity, in order to prepare them to cope in a non-native environment. At this point in their lives, some of our people might decide not to move, but what is important, is that they have a choice, that they regain a sense of self-determination."

It is particularly ironic that the Osnaburgh community is now in such a poor condition since this was the site of the signing of Treaty No. 9 in 1905 when Missabay, the Osnaburgh Chief, is reported to have stated that

> "...full consideration had been given the request made to them to enter into treaty with His Majesty, and <u>they were prepared to</u>

> sign, as they believed that nothing but good was intended. The money they would receive would be a great benefit to them, and the Indians were all very thankful for the advantages they would receive from the treaty"[8] (emphasis added)

It is essential for everyone to recognize that the traditional ways of life remain very important to the Ojibway of the four South Windigo communities. Many of them still hunt, fish, trap and gather to provide food and to supplement income. These activities are not only economic activities to the Ojibway of the Osnaburgh, Cat Lake, New Slate Falls and New Saugeen Nations, but are viewed by them as an integral component of their way of life and of the rights given to the Ojibway by the Creator.

The enforcement of federal and provincial game and fish laws is seen by the First Nations people as a direct contravention of their aboriginal and treaty rights and this is a root cause of conflict between those responsible for enforcement and the First Nations people.

The Nishnawbe-Aski Nation, the federal government and the provincial government are all signatories to a Memorandum of Understanding that commits them to negotiate self-government arrangements and one of these arrangements will relate to land and land rights. Clearly, traditional economic activities such as hunting, fishing, trapping and gathering are an integral part of such rights and action must be taken immediately to minimize conflict between First Nations people and conservation officers, pending the recognition of First Nations' rights in this respect. In this connection it is worth repeating Commissioner Scott's report on his Treaty No. 9 negotiations in 1905 on these issues.

> "Missabay, the recognized chief of the band, then spoke, expressing the fears of the Indians that, if they signed the treaty, they would be compelled to reside upon the reserve to be set apart for them, and would be deprived of the fishing and hunting privileges which they now enjoy.
>
> "On being informed that their fears in regard to both these matters were groundless, as their present manner of making their livelihood would in no way be interfered with, the Indians talked the matter over among themselves and then asked

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[8]Treaty No. 9, Letter dated Nov. 6, 1905 to the Supt. General of Indian Affairs, Ottawa, from Treaty Commissioners Scott, Stewart and MacMartin, p.5.

> to be given till the following day to prepare their reply".[9] (emphasis added)

As we know from the earlier quotation, the reply emphasized the First Nations assumption that "nothing but good was intended" and their expectations about "the advantages they would receive from the treaty". It is impossible, looking at these communities today, to believe that there were any advantages, whatever may have been the good intentions. That is why the land question has to be re-visited. The federal and provincial governments must act quickly to provide a satisfactory land base for all four communities. In the case of New Slate Falls and New Saugeen this means providing a reserve under the Indian Act of Canada and ensuring access to adequate natural resources to these communities. In the case of Cat Lake, this means greatly increasing the size of the Reserve and providing access to adequate natural resources in the vicinity. In the case of Osnaburgh, this means reaching an agreement on a suitable location together with ensuring access to natural resources that will sustain the community.

Indeed the issue goes well beyond such concepts as reserve lands. If the U.S.A., with its melting-pot philosophy, can accommodate Indian sovereignty on Indian lands, it is strange that the country of the 'vertical mosaic' finds it so hard to be as accommodating. Canada has not refused to recognize the concept of such sovereignty, it simply chooses to ignore it. The First Nations have made it clear that the issue of sovereignty can be ignored no longer; they have rejected assimilation and are rejecting federal/provincial paternalism. The time to recognize First Nations sovereignty is long overdue.

Economic Development

One of the major problems with economic development is that, in the past, it has almost always been achieved at the price of destroying or degrading the habitat which supports the traditional economic activities of hunting, trapping, fishing and gathering. This follows in part from the written version of Treaty No. 9 which, notwithstanding the oral assurances to the contrary, expressly made the pursuit of traditional economic activities

> "subject to such regulations as may from time-to-time be made by the government of the country, acting under the authority of His Majesty, and saving and excepting such tracts as may be required or taken up from time-to-time for settlement, mining, lumbering, trading or other purposes."[10] (emphasis added)

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[9]Ibid.

[10]Ibid., p.20

Incredibly, the First Nations were to give up their land in exchange for rights that could be unilaterally taken away by the party who now had the land. Now if that had been explained by Mr. Scott and his fellow Commissioners, how many "X"s would have been placed on the treaty by the First Nations signatories? We venture to suggest none at all. Perhaps Treaty No. 9 is a classic case of the legal concept of non est factum. It was not the thing it was purported to be. If the treaty is of no force and effect then the land title is questionable. If the treaty is in effect, then the verbal representations on the unconditional nature of the continued existence of the right to pursue traditional economic activities of the First Nations could override the restrictive words quoted above. After all they were neither translated into Ojibway nor explained to the First Nations parties. Further, they appeared in writing only in the English language, one in which the First Nations were illiterate.

Not surprisingly, on the basis of the above "bargain", hydro power, trees and minerals have been extracted to the detriment of the habitat and it could be argued that the First Nations have a right to see an end to such practices, to have compensation paid for loss of treaty rights in the past and to have royalties paid for any future extraction upon which they will have a veto if traditional economic activities would thereby be damaged.

More recently, attempts have been made to create development agreements between federal and provincial governments, private companies and First Nations organizations which have allowed for First Nations participation in training, apprenticeships, scholarships and jobs while at the same time preserving or reallocating opportunities to pursue traditional economic activities (or paying compensation for loss thereof) and addressing environmental concerns.

The Dona Lake Agreement and the Golden Patricia Agreement, which deal with gold mines, try to address some of these problems and Windigo Tribal Council, Osnaburgh and Cat Lake First Nations are signatories to them. But agreements like this, do not go far enough. They may recognize that some of the activities of the past on resource development in the north had taken wealth out of the north but did not pass any or much of it on to the First Nations communities. But the First Nations place at the negotiating table is not as secure as it ought to be. At present they seek a designation of the project as a major undertaking under the Environmental Assessment Act and the Minister, rather than deciding whether to designate or not, asks the parties to try to negotiate a mutually satisfactory arrangement. If the negotiations succeed, the request for designation can be withdrawn as part and parcel of the settlement.

For the First Nations to have a stronger hand at the negotiating table it would be necessary to recognize that sovereignty questions have not been fully settled in this part of Ontario; that all three governments have a genuine place, as of right, at the table; that a bi-polar view of the Canadian Constitution whereby everything that is not a provincial power is a federal power, was never really accurate; and that insisting that it is, will condemn the First Nations for ever to be seen as recipients of federal and provincial largesse rather than as full partners in the future of this country.

It must not be assumed, however, that the availability of training or jobs will result in an immediate long-term improvement for First Nations people by participating in the wage economy. Long experience with state-induced welfare dependency is a poor training ground for acquiring steady work habits and it is true to say that both Cat Lake and Osnaburgh have not been as successful as some other Windigo Tribal Council members in obtaining and, more importantly, in holding on to jobs at either the Dona Lake or the Golden Patricia mines. There have, however, been some successes and it is hoped that these can act as positive role models for some others. Such jobs cannot be the whole answer, even if a steady basis for employment by some members is achieved. At best, they can only be one of several options for participation in a mixture of subsistence and wage-economy activities.

Recommendations

2. New Slate Falls Nation and New Saugeen Nation should be granted reserve status under the Indian Act in order to become eligible for infrastructure-funding from the Department of Indian Affairs and Northern Development. Such status was promised by The Honourable David Crombie when he was the Minister of Indian Affairs and Northern Development and was subsequently refused by his successor The Honourable William McKnight. Although this is a federal matter, the Province of Ontario should assist both bands in pursuing reserve status as an essential step towards other solutions.

3. Even if reserve status were to be granted to New Slate Falls and New Saugeen Nation, both they, Cat Lake and Osnaburgh would still not have a sufficient land base in order to be economically viable. Therefore, all four bands require access to larger tracts in the areas surrounding their present locations to ensure economic viability and to act as a buffer against all activities which would have negative impacts on First Nations traditional economic activities such as hunting, trapping, fishing and gathering.

4. All four communities should have representation, as of right, in the decision-making processes on natural resource use and economic development in the areas surrounding their locations. They must be involved in co-management and planning board initiatives and be able to object to development incompatible with traditional economic activities. Access to royalties, jobs, training, apprenticeships, scholarships and contracts for goods and services to be supplied to development projects, must be assured to First Nations in the area. In addition, proper compensation must be paid in any case of loss of hunting, trapping, fishing or gathering that has been or would be caused by development.

5. The four communities must actively plan, develop and implement strategies to improve their socio-economic conditions and the federal and provincial governments must provide financial and technical assistance for this process to be undertaken.

4. HEALTH AND WELL-BEING

The Scott McKay Bain Health Panel[11] was involved in a year-long study into health care services for First Nations people in the Sioux Lookout Zone. Its task was to review, evaluate and determine the deficiencies of existing health services and programmes; to hold community hearings in order to document the concerns, problems, and suggested solutions of individual band councils and Elders in the region; and to establish a process and plan of action which would provide solutions and rectify the noted problems and deficiencies in the health care system. The Sioux Lookout Zone covers 385,000 square kilometres, or almost 1/3 of Ontario, stretching from Sioux Lookout to Fort Severn on Hudson Bay and from the Manitoba border in the west to Fort Hope in the east. Throughout this region there are 28 First Nations communities, including the four communities which are the subject matter of this Report. The First Nations people are clearly the majority of permanent residents in the Zone, since, of a total population of almost 18,000, no less than 14,000 are First Nations members.

The panel reported in 1989 on the effects of extreme poverty, powerlessness and despair on the mental and physical well-being of the people in the communities. The following passages quite clearly and dramatically express the severity of the conditions:

> "Probably the greatest single problem facing the aboriginal people in the Sioux Lookout Zone - and putting pressure on the health care system - is the breakdown of the traditional, extended family unit, the loss of cultural and spiritual values and the resulting decline of mental health. During its community visits, the Panel heard repeatedly the great concern of the people about family breakdown, lack of respect for elders, and the marked increase in alcohol consumption and substance abuse which is often associated with accidents and violence.
>
> "The social/cultural breakdown is exacerbated by high rates of unemployment: a leading cause of breakdowns in mental health. Adults who are unable to support their families become discouraged, depressed and less able to 'parent' effectively. The adult generation are also among those who were raised in the residential schools so that much that they would have learned from their parents about

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[11] From Here to There: Steps Along the Way, Achieving Health for All in the Sioux Lookout Zone, The Report of the Scott McKay Bain Health Panel, 1989.

> traditional culture and parenting has been lost.
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> "Many children and young people have grown up with little exposure to traditional, spiritual values. This cultural breakdown has been aided in part by television which exposes the children to an urban middle-class life style very different from life in the communities. There is very little family support and very few recreation facilities or programmes within the communities for adolescents. Symptoms of neglect (including high rates of school drop-outs, sexually transmitted disease, teenage pregnancy and teenage suicide) are commonplace. Several communities were extremely concerned about the alarming increase in suicides and suicide attempts amongst teenagers and young adults. Suicides in the 15 - 24 year old group has risen to 120 per 100,000, compared to less than 20 per 100,000 for non-natives in the same age group. In addition, marriage breakdown and family violence is increasing and children have few positive role models."[12]

The documentation of physical conditions of First Nations by the panel is more akin to that found in third world countries.

> "Many of the illnesses that plague native children - otitis media, gastro-enteritis, streptococcal infection, pneumonia and influenza - could be prevented with better living conditions.... However, sewage disposable systems, adequate supplies of drinking water and bathing facilities are virtually non-existent.
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> ...
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> "Housing is crowded and sub-standard and the standard of living in the communities is low when compared to the services and facilities available in urban centres and even to those in comparable, remote non-native communities. Indeed, if these

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[12]Ibid., pp.13-14.

> houses were in communities in the south, they would be condemned.
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> "In fact, the standards of services and infra-structure - housing, water, sewage etc. - in the communities in the Sioux Lookout Zone closely resemble those of many less developed countries."[13]

The Panel addressed specifically conditions it found in Osnaburgh:

> "Houses are crowded. The school and nursing station need to be replaced. Accessible by road and close to some major mining operations, the community must cope with the pressure and conflict that often arises from greater exposure to the outside world.
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> "The community itself is in distress: alcohol is a severe problem and the incidents of crime (arson, B & E, assault, manslaughter and liquor charges) far exceeds other communities in the Zone. In this community of just over 700 people, there have been 85 violent deaths in the past eight years, 11 deaths between November 1988 and April 1989 and 3 violent deaths in the months of March and April 1989. Social and community problems are accelerating."[14]

The Panel clearly made the link between the state of health of the communities and the lack of economic development.

> "Many of the communities in the Zone are on land with marginal economic potential. Work is often seasonal (hunting, fishing, trapping, tourism) and there are few career or employment opportunities for young people. Unemployment often reaches 80 to 90% in a community. Often the major sources of income are social assistance, family allowance and old age pensions.
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> "Although some short term job creation programmes may be available, there are no

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[13]Ibid., pp.14-15.

[14]Ibid., p.15.

> long term strategies to create on-going employment.
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> "When economic development does occur in the area around the reserve communities, the aboriginal people rarely benefit from or share in opportunities."[15]

There is a great deal of common ground on the frustrations facing native people in this area: (1) inadequate housing; (2) lack of employment and other income support, including medical and welfare benefits; (3) poor access to education and health resources; (4) absence of or inadequate transportation; and (5) disorganized and inadequate social services.

A not untypical response to these phenomena is withdrawal in its various forms, for example, absenteeism from school, substance abuse, illegitimate pregnancies, abandonment and divorce, child neglect, family and community violence, suicide and other self-injurious acts. It is the culture of poverty, powerlessness and anomie that results in a lowering of self-esteem manifested in anger, withdrawal and lack of positive action.

To be sure, changes will take time, money and support. It has taken many years for these communities to get to their present state and the downward spiral will not be reversed unless action is taken and great patience and understanding developed to end the cycle of state-induced welfare dependency and replace it with healthy, vibrant communities in charge of their own destinies.

Much of what the Health Panel and others speak of, was confirmed by members of this Committee. We were struck by the disparity between the housing conditions of the First Nations residents and the splendid nursing station at Cat Lake. It stood in a compound, surrounded by a 10-foot high fence containing a one-storey brick building, a garage and a four wheel vehicle. The facilities were first class, serving a community which paralleled what one sees in the third world. One of the justifications for such a nursing station with such amenities is that without it, the government would not be able to attract non-native service-providers. Similar arguments are sometimes made about school teachers' accommodation and schools in First Nations communities. Two oases, containing all the necessities of life, stand among a hundred or so habitations that have none of them. The question must arise whether money spent to deal with symptoms would be better served to remove the causes. What does it matter that a high class nursing station treats one for gastro-enteritis if the patient is to be sent home to the very conditions (unclean drinking water and lack of bathing facilities) that caused the problem and will inevitably do so again and again? It illustrates to this Committee that the First Nations people are often treated as a "commodity" to be served by well-paid, non-native professionals on the assumption that First Nations people will benefit from such largesse. In fact, such an approach more effectively traps them in the endless dependency-cycle which is part of the problem.

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[15]Ibid., pp.16-17.

Just as in the rest of Canadian society, family violence is increasing at an alarming rate on some of the northern reserves. However, because of the size of the communities, such acts of violence do not go unnoticed. The Committee was told that 25% of the admissions to the crisis shelter in Sioux Lookout in its first two years of operation were battered women and children from Osnaburgh - especially young women between the ages of 16 - 20 years of age. Because of the lack of services on the reserves, the victims of violence must travel great distances at substantial financial cost, and sometimes over the fierce objections of Band Councils who would prefer that the matter be addressed without resort to leaving the community. For those women who are fortunate in obtaining refuge, the respite is only temporary, with the vast majority returning to the reserve. In the meantime, there are no facilities or programmes either on or off the reserve to deal with the male batterer. The cycle of family violence is temporarily abated but resumes and will continue until a holistic approach to the problem is undertaken.

The causes of family violence are magnified by the culture of poverty, powerlessness and anomie identified earlier. Men on the reserve have faced an uprooting of that which gave value to their lives. Displaced from their traditional roles of provider and teacher to their children, their frustrations and anger at the loss of prestige and self-esteem have seen expression in violence directed towards their wives and children. This is exacerbated by the use of alcohol. The justice system, when it does respond, does so in an unpredictable fashion - sometimes fining or jailing the male batterers and on other occasions taking no action for, among other reasons, want of witnesses willing to prosecute. While immediate intervention is necessary in order to protect women and children from physical abuse, culturally appropriate programmes for counselling and treating men, women and children - all of whom are to some extent victims - are necessary. At the same time, the causes of family violence, rooted as they are in social and economic deprivation and leading to the lowering of self-esteem, must be addressed if there is to be any hope of re-establishing healthy communities. Clearly what is needed is more than bandaid solutions for a political and social system which greatly contributes to driving men to abuse their families.

The Ontario Native Women's Association has suggested certain laudable short term solutions:[16]

> "A special network of at least 12 healing lodges should be established in or near Aboriginal communities which can provide shelter, support and healing for the battered women and her children based on a model which reflects an Aboriginal vision of women, children, the family and with services available in Aboriginal languages.

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[16]Ontario Native Women's Association, Breaking Free: A Proposal for Changes to Aboriginal Family Violence, Ontario Native Women's Association, Thunder Bay, December 1989, pp.96-103.

...

"An Aboriginal treatment programme for male batterers such as the model proposed by Tikinagan Child and Family Services must be instituted across the province. It must be designed and staffed by Aboriginal persons drawing heavily on the resources of Elders and the most respected members of the community who can assist Aboriginal men in overcoming their anger, frustration and destructive behaviour towards their families.

...

"In developing solutions to Aboriginal family violence, it is essential to provide culturally appropriate services to children and to attempt to keep the children united with at least one parent, or relatives of the child, in the setting from which they came.

...

"The level of services required in aboriginal communities to treat and combat the abuse of alcohol, drugs and solvents must be immediately increased in order to address a problem intimately connected to the high incidence of family violence. Support must be made available for the expansion of existing services and the integration of these services with other services for batterers and victims, from the young to the old, to promote a holistic approach to Aboriginal family violence.

...

"An immediate education programme ... should be developed for Aboriginal people by Ontario Native Women's Association. Its purpose would be to educate the communities on the causes and nature of violence, the needs of Aboriginal families as well as encourage communities to take the initiative in starting up a 'healing lodge', batterer treatment programme and community response teams."

But the long term goal of an autonomous native justice system is seen as the only means of addressing this and other issues by the Ontario Native Women's Association.[17]

> "The province should vigorously support the creation of an Aboriginal justice system which can more readily address the Aboriginal people. Full support should also be given to setting up Aboriginal peace keepers in our communities, based on a culturally appropriate model and with the development of an Aboriginal justice system fully involving Elders and community leaders and to address the problem of family violence. Until such time as an Aboriginal justice system is in place, it is necessary to continue to involve Canadian law enforcers in Aboriginal family disputes in order to prevent an escalation of violence and increased harm to the family. It is not enough to lay Canadian Criminal Code charges against Aboriginal male batterers and incarcerate them because this will only fuel the vicious cycle of violence brought on by the frustration and difficulty of life under the administration of the Canadian government and criminal justice system. When charging is used against the batterer, counselling and treatment in a culturally sensitive manner must be mandatory so the individual can be healed."

Of course, for any justice system to be effective it must exist where there is an underlying economic base which supports the community and from which the community can derive its self-esteem. For the First Nations, it may be necessary for a greater sharing of power to take place between men and women on the reserve in order for the community to establish a stability based on equality and mutual respect.

Recommendations

Housing

6. The housing situation in all four communities is hopelessly inadequate both in numbers and quality, resulting in overcrowding and

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[17]Ibid., p.105.

unsanitary living conditions. All three governments must co-operate in increasing the availability of decent housing and in ensuring that it conforms to the type of accommodation that the communities have a desire to live in. All three housing settlements at Osnaburgh should be sign-posted on Highway 599 with warnings that children and pedestrians are in the vicinity and all three locations should also have speed reductions from 80 km/h to 60 km/h, properly posted by the Ministry of Transportation.

The Supply of Clean Drinking Water, Bathing Facilities, Sewage Disposal and Hydro Power

7. The homes of the First Nations people on all four communities lack a supply of clean drinking water, bathing facilities and any sewage disposal system. All three governments must take immediate steps to provide such basic requisites of public health, the absence of which leads to the classic third-world illnesses of gastro-enteritis, otitis media, and streptococcal infections. New Slate Falls must be connected to the hydro-power line that passes in the immediate vicinity of the community.

Recreational Facilities and Programmes

8. There is a total lack of recreational facilities or programmes on or near all of the communities other than Osnaburgh which only acquired a recreational facility in 1990 and has access to the hockey arena in Pickle Lake. This lack in three of the communities contributes to boredom in youths who then seek inappropriate outlets for their energies, for example, alcohol and solvent abuse. All three governments must co-operate in ensuring the building and operating of recreational facilities and programmes in all of the communities.

Alcohol, Drug and Solvent Abuse

9.1 While all four communities have problems of this nature, Osnaburgh and New Saugeen Nations appear to suffer most acutely in this respect. All need to develop an alcohol, drug and solvent abuse strategy for their communities.

9.2 There is a desperate need for a First Nations-operated, family-oriented alcohol, drug and solvent abuse rehabilitation programme in the South Windigo area. Any system which purports to treat the addict and then sends him or her back to the situation which contributed to the problem, provides no solution. Both the family and the community-milieu have to change as well as the patient. A remote location to assist, in some cases, with family removal should be coupled with assistance within the community.

9.3 There is a major concern that existing drug and alcohol counsellors lack adequate training and resources to perform their

difficult tasks properly and it is essential that they receive such training and support.

9.4 Public education on the effects of alcohol, drug and substance abuse should be introduced in the primary grades of school and developed further into general education programmes for the community-at-large.

9.5 Community patrols to seek and maintain in a safe place those who are under the influence of alcohol, drugs or solvents should be supported by federal and provincial funding. The patrols have been very effective in preventing deaths and injuries and they provide a better alternative to the arrest, fine, non-payment and committal warrant approach which tends to follow police intervention in such cases.

Family Violence

10.1 The first priority in family violence must be the immediate protection of victims (almost always wives and children) by the police, Tikinagan Child and Family Services or other means of intervention.

10.2 The second priority is to provide temporary shelter to victims until they can be physically healed and commence the process towards emotional health.

10.3 The third priority must be the recognition of counselling needs for the batterers (almost always husbands) who may themselves have been the victims of battering in childhood and, of course, counselling for the victims.

10.4 All of the above will require co-operation between First Nations leadership and police and will also require the provision of healing lodges where the process of renewal can be undertaken. All three governments must co-operate in ensuring that these priorities are identified and necessary remedial action taken along the lines set out in the body of this Report as suggested by the Ontario Native Women's Association.

Health Facility at Osnaburgh

11. Health facilities are grossly inadequate at the Osnaburgh Nursing Station. Although the Committee recognizes that delays in replacing this facility have been, in part, caused by the lack of a community decision on the health care model which it desires to pursue, effective medical services are urgently required and a decision on the appropriate model should not be unduly delayed.

5. CULTURE AND LANGUAGE

Culture

In the earlier section on land and economic development, the attachment of the First Nations people to the land was emphasized and will not be repeated here even though its importance could justify such reinforcement.

It is essential for the federal and provincial governments to recognize that, whatever other options for alternative activities exist or may be developed in the future, First Nations people in the remote north of Ontario will continue to place major importance on hunting, trapping, fishing and gathering and government policies should accommodate to this reality.

First Nations people find it impossible to justify governmental policies which would encourage U.S.A. citizens and others to enter the north and compete for the wildlife resources as tourists while at the same time activities by conservation officers and others actively discourage First Nations members from pursuing their traditional economic activities on lands they have occupied for thousands of years. It is important that the promises made to the First Nations at the time of the treaty negotiations be honoured and publicized to all.

There are many opportunities, in the short run, for the development of joint planning boards and co-management processes and practices in the north which would involve close co-operation on land-use questions between representatives of the Province of Ontario and of the First Nations. In the long run, questions of sovereignty will be articulated based on a combination of experience, assertion, recognition and negotiations. All these processes could be used to preserve and promote aspects of Ojibway culture that relate to land.

Language

Language becomes a barrier in Northern Ontario for many First Nations individuals when in contact with the prevailing justice system. Neither the laws that are administered by the O.P.P. and conservation officers nor the treaties themselves have ever been translated into Ojibway. First Nations individuals are issued summonses, offence notices, warrants, and official court-related documentation in the "two official languages", yet, they are often functionally illiterate in both. Euro-Canadian society has largely dealt with the fact that Ojibway is the language of the First Nations in this part of Northern Ontario by simply ignoring Ojibway and rendering none of the justice-related documentation in syllabics. Similar problems exist in the First Nations communities on the west coast of James Bay by ignoring the Cree language that predominates there.

First Nations individuals, when dealing with the justice system, from the police through the courts to the correctional process, may encounter difficulty both conceptually and linguistically with the use of the English language. It may occur at any time from first contact with the police, through

to instructing defence counsel, to the trial and beyond. There can be fundamental problems in comprehension and understanding, especially of technical legal terms. For example, do concepts of "guilty", "not guilty", "actus reus" and "mens rea" have a corresponding meaning in the language of the accused? Such issues raise questions of whether a First Nations accused, functionally illiterate in English, can ever receive a truly fair trial in a Canadian court for reasons that go well beyond any question of the bona fides of the participants.[18]

At the very least, the system has need of competently trained interpreters with an understanding not only of the First Nations language and local dialect, but also the legal process and its terminology. There has been a laudable attempt to produce a rudimentary glossary of legal terms by the Kenora Community Legal Clinic. However, as the background notes indicate:

> "The literal English translation was occasionally confusing and, at times, incomprehensible, resulting in the decision to omit [a] particular section. The reasons for this difficulty are speculative, but perhaps the fluid nature of the Ojibway language lies at the root of the problem. That is, the two translators involved, being from different reserves and of different generations, may attribute different meanings to or have a different understanding of the same Ojibway word. It is difficult to draw any firm conclusion given the modest scale of this particular project. Whatever the reasons, any attempt to achieve a standardized Ojibway translation of legal terminology is beyond our reach."[19]

The problems of translation between the "two official languages" pale in comparison with translating English into Ojibway both in terms and concepts. As we have learned, often an English term has no literal translation. The problem is, of course, exacerbated by the technical language of the law.

Presently, the use of competently trained interpreters is sporadic at best. The Committee was told that often someone present in the court room

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[18]This fundamental question is not peculiar to Canada. See similar problems that have been identified in the aboriginal justice context in Australian courts. "Aboriginal Customary Law: Problems of Evidence and Procedure", Reference on Aboriginal Customary Law Research Paper No. 13, Australian Law Reform Commission, March 1983, especially p.79.

[19]Nishnawbe-Gamik Friendship Centre Inc., A Glossary of Legal Terms, English/Ojibway, 1984.

would be pressed into service, including the native courtworker, whose role is not that of an interpreter. Often times we are told that evidence will be taken in English when a witness or the accused has a poor command of the language. From a First Nations perspective, the police and judges often mistake a simple nod of the head, a smile, or the use of elementary English words as indicative of an individual's being able to speak and comprehend the language; sometimes the inability of a First Nations accused or witness to speak or understand English is disbelieved under the mistaken or misguided belief that the individual is feigning ignorance.

The Committee was told that both lawyers and legal aid staff often write long letters in English to First Nations clients who are functionally illiterate, requesting information that cannot possibly be responded to without assistance. Such assistance is seldom, if ever, available in First Nations communities.

In addition to the problems with language, there are cultural differences that are often misunderstood. First Nations individuals do not fare well in the Euro-Canadian trial format with its emphasis on confrontation. The avoidance of eye contact is cultural behaviour that is often misunderstood. In addition, in the small reserves, practically everybody on the reserve feels connected either through kinship, friendship or marriage. Accordingly, the Euro-Canadian adversarial system, with its desire to seek the truth through searing cross-examination and confrontation, is completely alien to a culture where the hallmark of conflict-resolution was an informal customary process reinforced by a belief in spiritual sanctions.[20]

If the Euro-Canadian justice system is to be continued, what is surely needed is an infusion of money and time to train interpreters and translate the laws to the extent that this is possible. At the same time, police, lawyers and judges ought to be expected to speak and understand the language. Because the problem is so acute, an affirmative action programme is necessary to ensure that First Nations people can be attracted to existing positions in the short term, but the longer term goal must be the development of their own First Nations justice systems which would be conducted in the language of the community, thus avoiding the cumbersome remedial steps necessary to "fit" the Euro-Canadian system into a more culturally sensitive format.

Recommendations

12. There must be official tolerance for, and accommodation to, the traditional lifestyle of hunting, trapping, fishing and gathering of the four communities.

13. All federal and provincial laws and regulations should be examined to ascertain those which bear negatively upon the traditional

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[20]See e.g. Michael Coyle, "Traditional Indian Justice in Ontario: A Role for the Present?", Osgoode Hall Law Journal, Vol. 24, 1986, p.605.

economic pursuits of the First Nations people with a view to accommodating them to the native lifestyle.

14. Particular problems are experienced by New Saugeen Nation members over the proximity of both Treaty No. 3 and Treaty No. 9 boundaries in the vicinity of Savant Lake. Arbitrary enforcement practices are viewed as resulting in inflexible applications of game and fish laws to the discouragement of First Nations people in pursuing their traditional activities. This problem should be immediately addressed by all interested parties. A co-management board comprising First Nations and provincial representatives should control such issues in the future.

15. There is a massive need for cross-cultural training whereby the non-native participants in the justice system learn of the First Nations cultures and languages and vice-versa. Schools, universities and professional training institutions must address this gap in the educational system as a matter of urgency.

16. Treaties 3 and 9 were drawn up for multi-lingual parties; but they were prepared in English only. Studies should be undertaken to ascertain the extent to which such documents can be effectively translated into Ojibway and Cree as part of the task of ascertaining their meaning.

17. If federal and provincial laws are to be enforced on First Nations people in the four communities, they should be translated into Ojibway and explained to First Nations in their own language.

18. Trained interpreters, sensitive to local dialects, should be available not only to translate English "proceedings" to the accused but also to the attending community in court. The English-speaking police, Crown attorneys and defence counsel should also have interpreters when they are engaged in professional tasks involving First Nations members.

19. Official documents in English and French should also be available in syllabics to First Nations peoples in Northern Ontario.

20. Many native behavioral traits create difficulties and misunderstandings within the adversarial court system. Avoidance of eye-contact and the avoidance of saying negative things to another's face can be routinely misread by Euro-Canadians as lack of credibility, or inability or unwillingness to prosecute an alleged crime. This requires immediate attention by all parties in the present system.

21. The massive problems of translation, interpretation and cultural misunderstandings involved in the preceding recommendations can be avoided by recognizing traditional justice initiatives which would be conducted in Ojibway where this was the first language of a given community. Attempts to develop traditional justice systems should not be viewed as creating a second-class system, in the Committee's view, since what we have now is most certainly not a first-class system, viewed from the perspective of the First Nations.

6. EDUCATION

The Committee was advised that, with 40 to 50 years of access to Euro-Canadian education, Osnaburgh has produced only 3 male high-school graduates; only 65% of the eligible children are attending school and most of them are unable to read or write English or syllabics competently. Although the following quotation is from Chief Kaminawaish of Osnaburgh, the Committee believes it could be applied to the other three communities, in particular, and to many other Northern Ontario reserves:

> "The school system does not provide our male students with any assurance that their learning will ensure survival for themselves and their families. It does not provide the basic training in traditional male-orientated skills that define for them their maleness and their Indianness. It does not provide them with a sense of identity, so they lack the confidence to deal with the stress of entering a non-native environment. Our male students are not leaving the community to pursue higher education. Our female students generally do and attain a good education. Eventually our uneducated males marry our better educated females. This contributes to marital problems and family violence because of the husband's lack of identity and self-esteem.
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> "Although the present educational system may meet the needs of non-native students, it fails to help our students because it does not address the issue of our struggle to regain our identity as native people. We cannot deal with the stress of living with another culture unless we first have our firm roots within our own culture. When we regain a sense of identity and pride about our history, culture and traditions, we will have the confidence to deal with the non-native world. The school system is the most logical and natural format in which to begin this process".[21]

Those students who leave the community to pursue further education after completing primary school, do so at the vulnerable age of 13 years and

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[21]Ruth Rigbey, quoting Chief Kaminawaish on the topic "Ineffective Educational System", The Osnaburgh Report, 1988.

must travel to and live in larger centres such as Thunder Bay or Sioux Lookout. In such places there are inadequate support-systems to encourage successful completion of high school. This contributes to failure, "dropout" and a return to the reserve with no further attempt being made to obtain an education. Even if such a goal were to be present, it would be unattainable since there are no programmes for adult education on the reserve.

There is a need for participation in the Euro-Canadian educational system to provide native youths with a full range of options. Such a school system must, however, reinforce cultural values by relevant programmes designed to foster and enhance self-esteem. In such an environment, native youths should be exposed to and take pride in their own culture, language and heritage while learning about those of non-native society. Where education must be continued off the reserve, students must be provided with residence in homes run by First Nations individuals who can support and nurture students in their quest.

The most respected members of some communities are the Elders and Spiritual Leaders. They have a wealth of knowledge, wisdom, skills and energy which are being under-utilized. They have suffered such things as dislocation of the reserve, the development of highways, mines and dams. They have survived being confronted with hunting and fishing restrictions and have had to deal with a justice system that is perceived as alien and irrelevant. Elders can be a catalyst for the healing process to take place and should, where appropriate, play a major role in cultural and language programmes in the schools both on and off reserve.

Recommendations

22. One of the central goals of the First Nations communities must be to improve the educational standards of all of their children. There is a need, and it will continue into the future, for these communities to have within them the capacity to be fluently bi-lingual in Ojibway and English in both oral and written forms. It will be essential for them to possess the technical skills necessary to meet non-native society on an equal footing while at the same time ensuring that the communities control their own destinies through their own institutions.

23. Parents must take responsibility for the proper education of their children. This means ensuring that the children attend class and encouraging them to finish high school, college or university where appropriate. Parents must also take an active interest in finding out what their children are being taught in school and in participating in the design of an appropriate curriculum to include traditional language and cultural training in addition to core-subjects in the provincial educational system.

7. RELATIONS WITH NON-NATIVE COMMUNITIES

It is in everyone's interest that there be good relations between First Nations and non-native communities and this approach must be achieved at the local, regional, provincial and national levels. At the local level there should be a Race Relations Committee in Pickle Lake comprising representatives of Osnaburgh and Pickle Lake in the same way as a similar initiative has been undertaken in Sioux Lookout to address admitted problems with race-relations that have surfaced in that community.[22]

At both the provincial and federal levels, political ridings should be so constructed that representation in the Legislature and Parliament could be available to First Nations members representing the First Nations people in the region since they are in the majority in Northern Ontario. The present system of drawing electoral boundaries ensures that this majority will not have a unique voice in either Queen's Park or Ottawa. These initiatives are available for First Nations participation which they could pursue if they were so minded. There would, of course, continue to be the growth and development of First Nations self-government entities at the local, regional and Northern Ontario level (eg. Reserve, Tribal Council, Nishnawbe-Aski Nation).

In these and other ways, yet to be determined, the First Nations would have a voice in matters that affected them and this would constitute a major advance on present arrangements whereby they are grossly under-represented in local, provincial and national political forums.

Recommendations

24. A race relations committee should be set up comprising representatives of Osnaburgh and Pickle Lake in order to promote understanding and better relationships between the communities.

25. Insufficient attention has been paid to the fact that the First Nations people are the only permanent residents in the far north of Ontario. As such, they should be represented in federal and provincial ridings where First Nations form the majority, in addition to whatever arrangements are developed for self-government. In this way, the permanent residents would have a unique voice in federal, provincial and self-government bodies - all of which are sadly lacking at the present time.

26. Nothing in these recommendations should delay or interfere with, and any action taken hereunder should be without prejudice to, the development of First Nations self-government initiatives at the constitutional level or locally with pilot projects or other experiments, implementing aspects of self-government.

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[22] A questionnaire conducted by the Sioux Lookout Race Relations Committee in 1989 is reported as showing that 90% of the respondents said that there is a racial problem in Sioux Lookout, Northwest Explorer, July 17, 1990.

"There is no doubt that our greatest deficiency, in regard 'to the inherent dignity and ... the equal and inalienable rights of all members in the human family' in Canada, is with respect to Canada's aboriginal peoples. Any comparison between them and the rest of the population is tragic. .... No other domestic issue is more noted to our disadvantage internationally than the conditions of Canada's native peoples."

Mr. Justice Walter S. Tarnopolsky
Ontario Court of Appeal

Convocation Address at Osgoode Hall Law School of York University, North York, Ontario, June 16, 1989.

C. ADMINISTRATION OF JUSTICE

1. OVERVIEW

Aboriginal societies had their own ideas of justice and dispute resolution. Aboriginal law was concerned with maintaining social harmony since interdependency was necessary in order to meet the exigencies of a hunting and gathering existence. Disputes would be solved by a person known to both of the disputants, in contrast to the impersonalized machinery adopted by the Euro-Canadian justice system. When a dispute arose, it tended to involve other members within the same community and a well-understood system existed to resolve it. What the common law is to the Euro-Canadian justice system so customary law, based on an oral rather than a written tradition, was to aboriginal justice systems.

> "Crimes were seen as a hurt against a community of people, not against an abstract state. Community meetings of 'calling-to-account' therefore played an important part in investigation, evaluation, sentencing and even, through the shame they could inspire, punishment. The judicial system itself was viewed in a fundamentally different light than is the European system by non-Natives. Its primary goal was to protect the Community and further its goals. To this end, it placed much more emphasis on modifying future behaviour than on penalizing wrong-doers for past misdeeds. Counselling, therefore, was far more important than punishment. Punishment, in fact, was often only a last resort used to safeguard a community against extremely disruptive activity, when rehabilitative efforts had failed."[23]

The Euro-Canadian judicial system is more appropriate to a large, industrialized and urban society reflecting the impersonalized nature of the society itself. Such a judicial system stands in stark contrast to traditional aboriginal justice systems where the population is small, where both the offender and complainant are well-known and where there is a need for the community to resolve conflict immediately and finally so as to maintain the coherence of the community itself.

There is a marked trend among First Nations to reinforce traditional practices and values in an attempt to regain self-respect as a people. It is a respect hitherto eroded by previous Euro-Canadian government policies of

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[23]Submission to the Committee by New Saugeen Nation dated October 26, 1989 p.9.

assimilation and the indirect, yet arguably more pervasive, influence of systemic discrimination. At the same time, it is important to recognize that the original lifestyle of aboriginal society, characteristic of pre-European contact, will never again be fully reached. The overwhelming forces of commercial-industrial society are simply too powerful to ignore or escape.

This is not to say that, in addressing the justice concerns of aboriginal people, traditional values, beliefs and customs are to be ignored or forgotten. What is probably required is a combination of aspects of both traditional and Euro-Canadian justice institutions so as to develop a balanced system that is unique to the needs of individual First Nations and First Nations regional governments. As a result of this process, which must be developed by the First Nations themselves, unique dispute-resolution alternatives specific to those First Nations will emerge. This can be seen as part of the general trend towards developing alternative dispute-resolution systems in society at large, although this particular example of it is of extreme importance as it involves the survival of First Nations as a people.

On justice-related issues, two approaches suggest themselves to the Committee. The first takes Euro-Canadian institutions and uses them as models to recognize control over defined areas by the First Nations. In the United States this has been reflected in the tribal court system. However, as many commentators have noted, adapting American judicial institutions as models resulted in tribal courts becoming a pale mirror image of the U.S. court system.[24] This, in our view, should be avoided in Canada.

The second approach recognizes that the Euro-Canadian legal system, imposed upon First Nations communities, has failed to achieve justice and calls for "legal pluralism"; that is, the development of a separate, autonomous, preferably constitutionally entrenched native justice system, whether traditional or not:

> "This form of legal pluralism accords with philosophies underlying plural democratic societies and should have the desirable effect of supporting the survival and development of native cultures in the future".[25]

Of course, in Canada, legal pluralism has functioned for over two hundred years with the preservation of the Civil Code in Quebec, reflecting a desire to protect and preserve the needs and aspirations of Quebec. Yet, nowhere in the recent debate concerning the "duality" of the nation and the perceived need to preserve it was there any recognition of the inherent rights of the First Nations to representation in that debate about the future of this

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[24]Samuel Brakel, "American Indian Tribal Courts: Separate? Yes, Equal? Probably Not", American Bar Association Journal, Vol. 62, 1976, p.1004.

[25]B.A. Keon-Cohen, "Native Justice in Australia, Canada and the U.S.: A Comparative Analysis", Canadian Legal Aid Bulletin, Vol. 5, 1982, p.253.

country. This, in part, contributed to the failure of the Meech Lake process and will be likely to bedevil any future constitutional negotiations at which the First Nations are not represented, as of right.

In the view of the Committee, it is necessary to reinforce the general goal of developing aboriginal justice systems. Embracing aboriginal justice systems will require major financial and technical support from the federal and provincial governments. It will involve more than criticizing police, judges or correctional officials within the present system. It is that system which needs to be changed. We do not accept, as has been said by some, that an aboriginal justice system can only be a second-class one, relative to what is being done now. Most important of all, we do not believe that an aboriginal justice system can be imposed on First Nations communities. Its creation and development must be by aboriginals for aboriginals or it will surely fail. In the meantime, however, it will also be necessary to make changes to the existing system as it affects First Nations people.

There are, however, important legal questions that arise when one considers the implementation of a separate autonomous native justice system. Issues relating to jurisdiction and the Charter of Rights cannot easily be resolved. However, it is this Committee's view, that these issues should not interfere with the practical, social reasons for the development of an autonomous native justice system if that is what the First Nations desire. It is not our intention to provide a legal treatise on jurisdictional issues; however, we believe it to be advisable to clear up certain commonly held misconceptions regarding aboriginal rights and their status in Canadian society.

Misconceptions

1. Legal pluralism is not acceptable in Canadian society.

2. First Nations have no inherent rights.

3. Any inherent right to self-government that may have existed has been extinguished.

4. Treaties have extinguished all rights except those expressly preserved therein.

Misconception #1
Legal Pluralism Is Not Acceptable In Canadian Society

Legal pluralism is not a foreign concept in Canada. As previously shown, Quebec is already a stark example of the acceptance of legal pluralism. Therefore a separate native justice system would not involve the recognition of a unique or new concept. First Nations possess collective rights by virtue of

their aboriginal history and culture. A legal regime that is relevant to their culture and supports collective rights can co-exist in a liberal egalitarian society without infringing upon fundamental concepts of liberty and equality. If the Civil Code of Quebec can be tolerated in Canada, so can a native justice system.

Misconception #2
First Nations Have No Inherent Rights.

Aboriginal peoples have certain rights which are "inherent" and exist independent of Federal and Provincial legislative authority. Furthermore, these inherent collective rights are now protected from infringement by the guarantees contained in sections 35 and 25 of the Constitution Act, 1982. Band councils continue to enjoy customary law jurisdiction on those matters that First Nations inherited from tribal ancestors and which continue to be followed from generation to generation. They exist notwithstanding the overlapping authority of the Indian Act. However, coming within the Indian Act may be an advantage to First Nations for funding (e.g. New Slate Falls and New Saugeen Nation); but, in the longer view, developing beyond the Indian Act limitations, and exercising increased autonomy may be more desirable from the perspective of the First Nations.

Misconception #3
Any Inherent Right To Self-Government That May Have Existed Has Been Extinguished.

Traditional forms of government have not been extinguished by non-native governments. Section 35 of the Constitution Act, 1982 now protects aboriginal rights from extinguishment. One of the protected rights which belongs to First Nations may be the right to regulate their members' social conduct and their own dispute resolution processes. It is currently a question of debate whether such a self-government right has been extinguished by Acts of Parliament prior to 1982 or merely rendered temporarily unexercisable by statute or regulation. Consequently, First Nations are in the unique position of having a choice of whether to accept Canadian law or to regain jurisdiction over certain spheres of law which fall within their customary jurisdiction and have neither been extinguished prior to 1982 nor been validly negotiated away in the form of treaties or other similar arrangements.

Commentators[26] often express proposals for increasing self-government by suggesting the implementation of "framework legislation". They hold that such legislation is necessary to allow native agencies and First Nations to acquire additional jurisdiction and resources to take over certain social and economic responsibilities. For example, there are proposals for providing framework legislation for taking over prison and correctional responsibilities by First Nations as a step in the process to achieving greater

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[26]e.g. Michael Jackson, "Locking up Natives in Canada", University of British Columbia Law Review, Vol. 23, 1984, p.284.

self-government. Unfortunately, there is often a misconception held that such framework legislation is essential. Because of s.35 of the Constitution Act, 1982 and the existing inherent aboriginal rights of First Nations, such legislation is not required in order to provide the necessary authority for First Nations to take over prison responsibilities for native offenders who commit crimes within the jurisdiction of First Nations. Essentially, bilateral agreements between First Nations and the respective non-native government is all that is required to recognize jurisdiction. This is because a quasi-international relationship exists between First Nations and Federal and Provincial governments. However, as in international arrangements, legislation is needed to incorporate such agreements into domestic law. It is in this regard that framework legislation must be interpreted in the context of native negotiations for self-government. The purpose of such legislation is to provide non-native governments with the necessary direction and authority to facilitate the political arrangements between the First Nations and the respective non-native government. It is not, therefore, its purpose to grant authority of any kind to First Nations. They already have that as an unextinguished inherent right.

Framework legislation (to incorporate the arrangement into the domestic law of First Nations) would be an unusual concept in a society which was based in part on oral history and not upon the written word and where authority was functional rather than structural. The unwritten, customary law tradition of First Nations is characteristically fluid and thus any agreement reached by the First Nations leaders with non-native governments would become a part of the First Nations domestic law automatically.

Thus, framework legislation does not delegate authority to First Nations; but, rather it only recognizes that an agreement has been entered into based on a relationship of mutual trust between two distinct nations which was originally formed in the period of early contact between allies and which, from time-to-time, was supposed to be reflected in treaty negotiations. Unfortunately, time, unchecked industrialization and government policies have diluted the spirit of co-operation which characterized early relationships between the First Nations and the colonial powers.

Misconception #4
Treaties Have Extinguished All Rights Except Those Expressly Preserved Therein.

Treaties may have limited absolute sovereignty; but they have left intact residual sovereignty over many of the powers that nations generally possess, particularly those that deal exclusively with matters internal to themselves. Control over social behaviour within First Nations would, for example, be a legitimate component of self-government to be re-claimed by First Nations as a matter falling within their jurisdiction. The extent to which control over justice matters would be exercised by First Nations requires further definition of such questions as jurisdiction over the person, the

offence and the territory involved. There is a growing body of literature which examines the various combinations and permutations that are possible.[27]

The recent release by the Minister Responsible for Native Affairs in Ontario of the Guidelines for the Negotiation of Aboriginal Self-Government indicates a concentration on a community or regional approach to negotiating self-government arrangements. The guidelines leave open the issue of inherent rights. Paragraph A.5 of the Guidelines states:

> "Ontario reaffirms its willingness to participate in the negotiation of aboriginal constitutional matters. The issue of the inherent right to self-government and the exercise of sovereign powers is properly addressed in the constitutional forum."[28]

Regardless of the final outcome of the legal and political debates, it is this Committee's understanding that the justice system as it currently affects the communities in the South Windigo Tribal Council area, must change in ways that will make it relevant to the lifestyles and cultural values of Ojibway people.

This part of Northern Ontario has a large majority of First Nations residents. Notwithstanding this, under current arrangements, the federal and provincial political representatives, and the police, conservation, court and correctional officials are overwhelmingly non-native -- in the more powerful roles, exclusively so. In short, the current system is profoundly undemocratic and as long as this massive imbalance continues, it will be impossible to remove the perception that there is one system for the First Nations people and another for the non-native population of the north. The solution to this is not to provide for the aboriginalization of the current system. It is, rather, to make possible the aboriginalization of federal and provincial political representation and to recognize First Nations self-government and aboriginal justice systems.

Recommendation

27. The general goal ought to be to encourage and financially support First Nations in their aspirations to develop aboriginal justice

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[27]See example, Judith A. Osborne, "Indian Gaming: The Power to Gamble or the Gamble for Power" Canadian Native Law Reporter, Vol. 4, 1989, pp.21, 26 and 31; Rick H. Hemmington, "Jurisdiction of Future Tribal Courts in Canada: Learning from the American Experience" Canadian Native Law Reporter, Vol. 2, 1988, p.35.

[28]Guidelines for the Negotiation of Aboriginal Self-Government, Ontario Native Affairs Directorate, Tabled in Ontario Legislature 14/12/89 by Hon. Ian Scott, Minister Responsible for Native Affairs.

systems suitable to the needs of their communities. For example, Osnaburgh has identified the following timetable as being feasible for a five-year plan: a) development - two years; b) community preparation and education - one year; c) implementation - one year; d) evaluation - one year. All of the recommendations which follow may, of course, be accepted in whole, or in part, or be rejected outright by First Nations as they develop the kinds of aboriginal justice systems which they see as relevant to the needs of their communities.

2. POLICING

Osnaburgh

In the case of Osnaburgh, policing is the responsibility of the Ontario Provincial Police detachment located in the predominantly non-native community of Pickle Lake, some 35 kilometres north of the reserve. With a complement of 11 police officers for a community of 400, it is quite evident that the detachment was placed there, not because of the law enforcement needs of Pickle Lake, but to police the 737 residents of Osnaburgh - at a distance. From time-to-time there have also been one or two First Nations Constables (see below) attached to the Pickle Lake detachment. During most of the period of the Committee's involvement, one First Nations Constable was so employed and, at the present time, a second First Nations Constable has been assigned there. Although both are First Nations members, neither speaks Ojibway nor resides in Osnaburgh.

In 1975, the Indian Constable Programme commenced operation in Ontario with 40 personnel. Now known as First Nations policing arrangements, this tripartite agreement between Canada, Ontario and the First Nations provides for 132 First Nations Constables in Ontario under the joint-supervision of the First Nations police governing authority or band council and the Commissioner of the Ontario Provincial Police. There has been no increase in the number of First Nations Constables in Ontario in the last six years even though the First Nations, the Province of Ontario and the federal government all agree that there is an urgent need for an additional one hundred First Nations Constables. The need continues to be unsatisfied because the federal government is engaged in preparing a national policy on First Nations police arrangements and is unwilling to make an exception for Ontario by agreeing to any increases unless or until such a policy is developed for the entire country and approved by Cabinet.

Some communities prefer their own members to act as their First Nations Constables while others choose non-residents. Some of the positions are stable; others have experienced 200% turnover annually, including re-location to other reserves. The reasons for the high turnover, we were advised, include job stress, poor selection, dislocation from families, lack of training, poor housing conditions and working for "two bosses" - the Ontario Provincial Police and the Chief and Council who may have different views on what should be done about particular incidents.

As a result of a fire, the original O.P.P. detachment was replaced in 1990 by a $1.6 million edifice in Pickle Lake. However, for close to 16 months after the fire, those arrested (the vast majority of whom were from Osnaburgh) were held in police vans, on Ministry of Natural Resources premises in Pickle Lake, regardless of the season or weather conditions. As a result of the injuries suffered by Stanley Shingebis, while so detained, a new policy was put in place whereby all prisoners were taken to Sioux Lookout, the closest O.P.P. facility. This was several hours away by car and was very wasteful in incurring police overtime and in misusing scarce police resources by the lack of police coverage in Pickle Lake and Osnaburgh while escort duties were being performed outside the area.

The placement, cost and staffing of the new O.P.P. detachment building reflects fundamental problems with respect to policing of First Nations communities by non-native police organizations. The new building represents the Ministry of Government Services' model for O.P.P. detachments for Ontario regardless of the location and needs of the communities to be served. Apart from the arena, it is one of the larger buildings in Pickle Lake. It reflects the view that one can police the north with a Southern Ontario perspective. The detachment has long been considered an "outpost". O.P.P. members are no longer sent to Pickle Lake for disciplinary purposes, i.e. as a punishment-posting. Volunteers are now called upon and the reward is that, after two years of service at Pickle Lake, an O.P.P. member can have a pick of detachment-assignments in Ontario. There is no special training for the posting - no introduction or appreciation of the customs, values and language of the First Nations people to be served by the police. In fact none of the O.P.P. personnel in this area speaks or has ever spoken Ojibway and many have little in the way of police experience. In the American West, in the 19th century, the U.S. cavalry were often referred to by aboriginal people as the "long knives". In this part of the north, the word for "policeman" in Ojibway is literally translated as "the man who locks you up"; farther north it is translated as "the soldier". As we approach the 21st century, these are the words being used in this country to describe policemen - the translation for "peacekeeper" or "peacemaker" are notably absent.

The complaints heard by the Committee were legion:

- poor response-time on calls to the reserve;

- lack of preventive patrols on the reserve notwithstanding the fact that both an office and house have been provided for a police officer;

- inability to speak Ojibway and understand the cultural mores and values of the people to be served;

- physical abuse of community residents and those held in custody; and

- the very tragic events surrounding the injuries to Stanley Shingebis.

Understandably, the O.P.P. have a different perspective on these issues. They believe that their response-times are reasonable having regard to the distance from Pickle Lake to Osnaburgh; that preventive patrols do occur on the reserve but admittedly not as effectively as they could if a proper police station were located on the reserve; but, the current facilities at Osnaburgh are, in the view of the O.P.P., totally inadequate. The current tripartite policing agreement between Canada, Ontario and the First Nations makes no provision for capital expenditures and Osnaburgh has no funds to improve their police facilities - hence the impasse.

The O.P.P. agree that none of their members at Pickle Lake can speak or understand Ojibway but they do not see this as a major problem as they claim to be able to find people to act as interpreters in those cases where it is necessary. They, of course, deny the use of physical force in dealing with First Nations people beyond that which is reasonable and lawful in the circumstances and would be used in exercising their duties irrespective of the colour, class, creed or race of the people with whom they are dealing.

In the view of the Committee, it is not at all surprising that the Ojibway community and the non-Ojibway police force currently responsible for it have vastly different perceptions about the realities of policing the Osnaburgh community. Indeed, one might ask, how could it be otherwise? Two groups with different language, culture and belief systems are hardly going to agree on something as potentially divisive as the propriety of police conduct. After all, the police in our system, are the only peacetime group given a monopoly on the legal use of force and difficult judgment-calls often arise in measuring reasonable responses to concrete situations. In our view the O.P.P., operating out of Pickle Lake, are being asked to do an impossible job in policing the Osnaburgh reserve and the solution is for the task to be undertaken in an entirely different way.

What is called for is policing of First Nations territories that is controlled by the First Nations themselves. The communities, in the past, had a means of exerting control over their members and solving conflicts. There must be a return to community control of policing by First Nations people.

The Windigo Tribal Council, in its oral and written submissions to the Committee, addressed issues of police and justice services both in the long and short term and suggested that the following factors should be considered:

1. The policing requirements of the southern Windigo Tribal Council area, which is similar to the Windigo Tribal Council area generally and indeed much of the Nishnawbe-Aski Nation, are fundamentally different from those of Southern Ontario. In Northern Ontario, police officers with knowledge of the language and culture of the First Nations must provide police services to First Nations people on reserves.

2. The development of native self-administration including appropriate justice and policing initiatives to be integrated with the development of First Nations political and administrative institutions.

3. The development of appropriate policing and justice services is a complex and time consuming exercise since it will not be appropriate to blindly adopt models from other jurisdictions. It will therefore be necessary to identify the characteristics of First Nations police and justice services which would be appropriate to northern communities.

4. The provision of justice-related services must be attuned to linguistic and cultural differences and be available in Ojibway.

5. In this part of Northern Ontario, the orientation of justice-related services should move from Kenora and Dryden to Pickle Lake and Sioux Lookout.

6. There should be a staged movement of policing authority from the Ontario Provincial Police to a First Nations police service which would work closely with the Ontario Provincial Police.

7. There is an urgent need to establish policies for intoxicated native and non-native persons which go beyond the current approach with its emphasis on arrest, fine, default and incarceration.

New Saugeen Nation

The policing of the New Saugeen Nation and Savant Lake communities is currently handled by the O.P.P. detachment at Ignace 136 kilometres to the south. There is no First Nations Constable appointed to that detachment. New Saugeen Nation members complain that there appears to be a reluctance to police the Savant Lake area; they claim that when they contact the Ignace detachment they are sometimes referred to the Pickle Lake detachment and when they contact the Pickle Lake detachment they are always referred to the Ignace detachment. They also complain that, when there is a call for policing, the response is often long-delayed. Such is the distance from Ignace to Savant Lake that it is difficult, under the present arrangements, for long periods of preventive police patrol to occur in the vicinity of Savant Lake because large quantities of on-duty time are taken up by travel to and from Savant Lake from Ignace.

As in the case of Osnaburgh, part of the problem is caused by the concentration of non-native police officers where there are non-native communities with the result that there are inevitable claims of lack of police services and poor response-times in those areas where First Nations people are concentrated.

The New Saugeen Nation, in its written and oral submissions, sought the establishment of a First Nations police service:

- to provide effective law enforcement;

- to ensure good communications between the police and First Nations communities;

- to give the communities a significant role in selecting and evaluating their police officers; and

- to encourage actual and symbolic ties between the First Nations police and the communities they serve.

In addition to the establishment of a First Nations police service, the New Saugeen Nation supported the use of informal community patrols to help keep order in the community and to work in close association with peace officers.

Cat Lake

Cat Lake is policed by the Northwest Patrol of the Ontario Provincial Police and has a First Nations Constable who lives on the reserve. He is not a First Nations member and does not speak Ojibway. The Northwest Patrol was established in 1974 and operates out of Sioux Lookout, covering 25 First Nations communities over 128,000 square miles of Northern Ontario. Twenty of the communities have First Nations Constables of whom 12 are themselves members of First Nations.

The Northwest Patrol is currently located in Sioux Lookout in a trailer without water or washrooms and in extremely cramped quarters. New premises are in the process of being constructed at the Sioux Lookout airport. The airplane used (a turbo-beaver) is technically ancient and almost impossible to operate legally. It has no de-icing or night flying capabilities and cannot operate in snow or visibility restricted conditions. It has a range of 3 1/2 hours at 130 m.p.h. Pickle Lake and Red Lake are the only available fuel stops outside of Sioux Lookout. There is clearly a need for better transportation arrangements between the Northwest Patrol and First Nations Constables located on the reserves. Modern aircraft, able to provide an effective service, are required both in the Northwest and Northeast regions of Ontario and should become part of the equipment of a First Nations Police Service when it is established there. In addition, the building, living accommodation and equipment for the First Nations Constable on the reserve need great improvement.

None of the members of the Northwest Patrol speaks Ojibway and all are volunteers. They receive some cultural awareness programmes and seminars both in the north and at the O.P.P. Academy at Brampton. The lack of ability to communicate in Ojibway, at least in the view of members of the Northwest Patrol, is not seen as a problem. Both this inability to speak Ojibway and the perception that it is not a problem, are of grave concern to the Committee.

The majority of criminal offences at Cat Lake appear to be alcohol-related, consisting of break and entering, theft, disturbances, mischief and assaults. The level of crime, however, nowhere approximates the catastrophic levels experienced at Osnaburgh.

Chief Wesley, in oral submissions to the Committee, identified the following as important factors in improving the quality of police services:

1. The need for the police to play an educative role in the community in explaining laws and procedures. This is particularly necessary following the cases of sudden deaths

in order to avoid the growth and development of rumours and misunderstandings.

2. The need for follow-up counselling to take place after police intervention in family violence matters.

3. The need for effective police facilities on the reserve including an office and lock-up.

4. A more effective service from the Northwest Patrol including better provision of personnel and aircraft.

5. The inclusion of a coroner on the police investigative team when a fatality has been inquired into.

6. A greater use of the community to assist police with their investigations.

New Slate Falls

New Slate Falls is policed by the Northwest Patrol and does not have the benefit of a First Nations Constable residing in the community. Of the four communities, New Slate Falls has the least amount of crime and disorder. Police intervention is usually restricted to situations where, liquor having been obtained - sometimes from a break-in at a hunting or fishing lodge in the vicinity - fighting and assaults occur among the miscreants. Most incidents are dealt with by the community itself and outside assistance is only sought when there is genuine fear, in the community-at-large, that serious injury may occur.

The South Windigo Communities

It is clear that there must be fundamental changes in policing the area. It is necessary, not only that the police, but also a supervisory police commission, should be in the hands of First Nations people. Because of the size of the communities and the isolation factors involved, this policing system would be most effective in a regional form while ensuring that individual communities have major input on such issues as recruitment of and performance-evaluation on the officers policing their territory. It should be the task of the First Nations police commission to develop and implement policies to deal with the policing issues raised by the communities with this Committee, some examples of which are detailed below.

Recommendations

28. Policing in the north of Ontario - from a point to be determined by negotiation between the First Nations and the Province of Ontario - should be undertaken by a First Nations police service controlled by a police commission comprising a majority of First Nations members. First Nations police would have authority to enforce federal,

provincial and First Nations laws until the details of sovereignty/self-government are clarified.

29. The South Windigo area could be a division within that police structure. The selection of suitable candidates would be done in full consultation with the First Nations community to be policed. Personnel for this First Nations police service would include recruitment from existing First Nations Constables in the current Ontario First Nations policing arrangements and from First Nations members of the Ontario Provincial Police.

30. The above recommendations should be phased-in by agreement with the Province of Ontario and in the closest possible co-operation with the Ontario Provincial Police with whom good relations should be fostered both during and after the transition period.

31. During the transition phase, no member of the Ontario Provincial Police should be posted to detachments north of 50°N latitude or remain there without receiving proper training and education on the First Nations peoples, their languages and culture.

32. In the view of the Committee, the First Nations Police Commission, when established, should resolve the following matters and, in the meantime, the Ontario Provincial Police should review their present arrangements with a view to making improvements, where applicable:

32.1 there must be adequate policing services in each of the four communities;

32.2 Osnaburgh in particular requires a major reappraisal of how policing services should be provided on that territory with a view to creating a sense of safety and security for the residents and ensuring proper police facilities there;

32.3 despite the relatively low population base, New Saugeen Nation should immediately receive preventive policing to assist in maintaining the peace and encouraging better relations between First Nations members and the non-native population of Savant Lake, both of whom have suffered from a lack of visible police presence in the past;

32.4 the development of a policy for dealing with public drunkenness in a manner which reduces or eliminates dependence on arrest, fine, non-payment and committal warrant proceedings as a suitable strategy;

32.5 the development of distinctive uniforms and insignia which would enhance identification with First Nations communities, including whether firearms need to be visibly carried at all times (as opposed to being available for use in appropriate cases);

32.6 development of a system of investigating citizen complaints against the police which would ensure the independence and objectivity of the investigator;

32.7 development of a communications policy whereby the results of investigations would be reported to the community in a manner which would provide adequate information to reduce or eliminate baseless rumours and speculation.

3. CONSERVATION OFFICERS

One cannot comment upon the subject of law enforcement in the north without reference to the activity of conservation officers. It is clear that enforcement by the Ministry of Natural Resources through its conservation officers is a major source of irritant to the communities, members of which practice, in the main, an indigenous lifestyle. Further, despite the negative effect on the natural habitat by modern Euro-Canadian commercial activities, the people of these communities continue to practice hunting, fishing, trapping and gathering in order, in part, to sustain themselves. Fish and moose are used for food for their families; beaver are trapped for their furs and meat and are also exchanged for other commodities. It is pointless to speak of hunting and fishing rights, if the habitat which sustains such wildlife is destroyed or impaired and this explains the deep concern which was evident, in all four communities, over encroachment upon treaty lands by non-traditional users.

As was discussed earlier in this Report, this issue clearly arises in the Treaty No. 9 area because of the assurances given in 1905 by the representatives of the Crown that traditional practices would continue unabated under the Crown's protection. Promising to ensure that an indigenous life would continue on the one hand and then enacting legislation or approving development projects that would tend to limit, prescribe or prohibit the ability of First Nations people to continue to practice their time-honoured traditions is and appears to be hypocritical.

Canadian society has criminalized the traditions of hunting, fishing and trapping. This is aptly put by the New Saugeen Nation in its written brief:

> "...it is appropriate to discuss matters relating to the administration of existing wildlife regulations. Of especial concern, is the implication which arises that Native people are criminal by adhering to their traditions. This is widely destructive.... These wildlife laws, in short, tear Native people away from traditional concepts of order while making it impossible for them to value the 'European' alternatives."[29]

A particularly pernicious way in which wildlife laws are enforced in Ontario is by the procedures laid down in the Provincial Offences Act. Under this Act, a conservation officer can issue a Part 1 Offence Notice or Part 3 Summons for violating any of a number of laws and regulations respecting wildlife. Neither of the processes is issued in syllabics but in the "two official languages" notwithstanding that, for the majority of residents, Ojibway is their language and they are functionally illiterate in English. Further, no provincial offences court is held in Savant Lake. Members of the New Saugeen Nation, are required to appear in Sioux Lookout. This is the location of the

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[29]Written submission to the Committee by New Saugeen Nation, dated 26/10/89, p.6.

district office of the Ministry of Natural Resources. The residents have no practical way of getting to court; but it is very convenient for the conservation officers to do so. As a result, failure to appear by First Nations defendants results in convictions in their absence. Thus a process written in a language they do not understand results in a conviction in a court they are unable to attend.

The philosophy of the Provincial Offences Act was to enforce compliance by way of fine, rather than imprisonment. It is a philosophy perhaps suited to Southern Ontario urban centres; however, in a basically cashless society it results, as a matter of course, in the issuance of committal warrants and jail. As a result we have criminalized the First Nations members time-honoured traditional practices and imprison people for being unable to pay the fine. First Nations people become imprisoned because (1) they practice a traditional lifestyle and (2) they are poor. It is a very bleak picture. Again, the New Saugeen Nation brief depicts the effect:

> "Many laws interfere with the ability of Native people to pursue traditional activities in the land. But the land is where Native adults have most constructive influence over their children. It is there that they are looked up to and imitated; there that they can best educate young people and instill values in them. When Native people are cut off from the land, this education too, is cut off. Adults lose their esteem in the eyes of their children and young people consequently lose their respect for authority and order and any clear idea that they might have of justice and propriety. The justice system then, by undermining traditional activities, corrodes the very values it hopes to impart. The legal regime should, instead, do all it can to enhance traditional pursuits."[30]

The New Saugeen Nation made the following recommendations:

1. Regulations administered by the Ministry of Natural Resources should be modified as much as possible to allow native people to pursue traditional ways without undue interference.

2. The above modifications should be arrived at through consultations between the communities and the Ministry, the purpose of which should be to identify offending regulations and procedures and to suggest and evaluate alternatives.

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[30]Ibid., p.7.

Similar concerns were raised in other communities. At Osnaburgh, Chief Kaminawaish expressed the concept in the following way:

> "We want to ensure that our people have access to natural resources in generations to come and that our constitutional rights are protected while considering the needs of sportsmen, recreationists and naturalists. We want to improve our quality of life and make sure the resources are there to be enjoyed.
>
> "The Ministry of Natural Resources has the scientific and technological skills and we have the wisdom and historical experience of living with nature. We believe that, collectively, we must integrate these skills and knowledge to the benefit of, and on behalf of, all Ontarians".[31]

What one hears from these communities is a call for co-operation between the nations. One gets the very distinct impression from the First Nations people, their leaders and Elders that, notwithstanding the many sources of friction, past and present, they still want to work closely with the rest of society for the betterment of all.

It has been said that one of the central differences between the Euro-Canadian and the First Nations view of land and resources is that for the Euro-Canadian, the land and resources are but commodities to be exploited. We now have seen the results of this in terms of environmental damage. The First Nations, on the other hand, regard themselves as trustees of the land for future generations. There is much to be learned from the First Nations about their respect for this planet.[32]

In the view of the Committee, there is a major role to be played by First Nations people in this part of Northern Ontario in the conservation of natural resources. In our view, it is not at all unreasonable to expect that, since the First Nations are by far the majority of the population, they should be just as heavily represented in the role of conservation officer. This work could either be done by a regional First Nations police service, following suitable training, or by conservation officers answerable to a co-management board comprising First Nations and other interests. At present, of 62 employees in the Sioux Lookout District of the Ministry of Natural Resources, only 2 are First Nations members.

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[31]Rigbey, op. cit., "Inappropriate Resource Management".

[32]Johnston, op. cit., p.32.

Recommendation

33. Conservation duties in the north of Ontario - from a point to be determined by negotiation between the First Nations and the Province of Ontario - should be undertaken either by the First Nations police service described earlier following suitable training, or by conservation officers answerable to a co-management Board which would employ a majority of First Nations members in such work.

4. COURTS

In this part of Northern Ontario, the location and composition of the courts which may deal with criminal matters are as follows: the Supreme and District Court are held in Kenora; Provincial Court (Criminal Division), Phase I Youth Court (12 - 15 year olds) and Phase II Youth Court (16 and 17 year olds) are held, in Pickle Lake (for Osnaburgh), in Cat Lake (for Cat Lake and New Slate Falls), in Savant Lake (for New Saugeen Nation) and in Sioux Lookout. The latter court comes into contact with members of the four communities who are arrested when visiting Sioux Lookout or, in certain cases, when they are brought there in custody from their respective communities, if pre-trial release by the police is considered inappropriate. Provincial Offences Court, presided over by a Justice of the Peace, is held at Pickle Lake (for Osnaburgh), Cat Lake (for Cat Lake and New Slate Falls), and Sioux Lookout (for New Saugeen Nation). No courts of any kind are held at New Slate Falls, the residents being required to travel to Cat Lake for their cases to be heard. One must wonder if these four small communities really require such a complicated court-structure to deal with the issues that arise there?

Osnaburgh

For offences that occur at Osnaburgh, court is held in Pickle Lake 35 kilometres to the north. It is often difficult for both the accused and witnesses to travel to court because of a lack of transportation. On average, 90% of the court-list at Pickle Lake involves Osnaburgh residents; the great majority of offences are against other Osnaburgh residents and have occurred on the reserve. Yet, the court is not held in the community of Osnaburgh. The reasons, we were told, include a reluctance of judges to conduct sittings in Osnaburgh because of the lack of proper facilities. In addition, the Osnaburgh community does not desire the presence, on its territory, of a court which dispenses a law which they perceive to be irrelevant to their needs, operating in a language which many of its members do not understand and using procedures which are, to them, incomprehensible.

Because of the distance to court, the Ontario Provincial Police send a bus to the reserve. However, we were told, that only accused who are on a list provided to the driver are entitled to travel on the bus, even if they have documents showing that they have a case in court that day. No witnesses are allowed on the bus and, accordingly, unless special arrangements are made, they have to fend for themselves. We were told that numerous cases are withdrawn or dismissed because of the non-appearance of witnesses. If an accused does not appear, this will result in a bench warrant being issued for his arrest. We were told that from time-to-time the Ontario Provincial Police would venture on to the reserve on what the residents refer to as "warrant day" to execute en masse the many warrants of arrest that are outstanding against residents. Whatever the facts may be, it appears that the present location of the court and the current transportation arrangement contribute substantially to the non-appearance of accused and witnesses leading to the issuance of warrants of arrest or the withdrawal of proceedings.

The current system calls for monthly courts to be held in Pickle Lake over a two-day period. However, in 1989, no criminal or youth courts were held in Pickle Lake during the months of June, July and August. As a result, 27 trials were scheduled for the first court date in September which had a list of 60 cases set for the two days of hearings.

The criminal and youth courts at Pickle Lake have been described by Osnaburgh residents and others as a "zoo" - some accused being drunk, babies screaming, radios playing and no judicial robes being worn. We were told that the facilities for holding court are hopelessly inadequate. There are no meeting rooms for confidential discussions between lawyers and clients and language problems abound. The picture one gets of the court in Pickle Lake is that of utter chaos. A Crown attorney, who has attended the court, has described the court-list in Pickle Lake as horrendous. If the witnesses appear, defence counsel will usually enter pleas of guilty. On the other hand, where the witnesses do not appear, the charges will often be withdrawn. Finally we were told that very few trials take place and that most matters are resolved by way of plea bargaining or withdrawal. If scenes like this were to occur in courts in Southern Ontario the press would have a field day. In the north, it passes without comment and the First Nations community involved has neither cultural nor linguistic appreciation of what is transpiring in court in the name of justice.

New Saugeen Nation

For the residents of New Saugeen Nation, criminal and youth courts are held in Savant Lake. However, as indicated earlier, no provincial offences court is held in Savant Lake, necessitating matters being heard in Sioux Lookout. Because of the absence of transportation and the distances involved, provincial offences, which are in the main wildlife infractions, are resolved by way of convictions in the absence of the accused, leading to fines and the possibility of incarceration by way of committal warrant. New Saugeen Nation would like to see both family court and provincial offences court being convened there at least until more thorough reforms can be undertaken.

Cat Lake

Court days for reserves patrolled by the Northwest Patrol including Cat Lake are set annually in advance. In 1990, 133 court dates were set for the entire area including what is called an "advance-day" when lawyers travel on the day prior to court to meet with their clients. Court dates are set in groups of two days with criminal and youth court on one and provincial offences court on the other. As explained earlier, no court is held at New Slate Falls; rather, the residents must travel to Cat Lake in order to have matters dealt with at that location.

The Crown attorney, defence counsel and police all arrive together on the advance day. There are no First Nations Crown attorneys or defence counsel. This creates a language barrier. First Nations courtworkers exist to explain the system to First Nations defendants. Their role is often

misunderstood and they are often asked to help with translation both in and out of court and to complete legal aid applications which they claim is not in their job description.

At one time, the judge travelled with the Crown attorney, defence counsel and police. This practice has recently stopped because it left a clear impression of a lack of impartiality from the perspective of the First Nations. Court dates are set at the beginning of the year; but, weather often dictates whether a court can, in fact, be held. Both the Chief and Band Council at Cat Lake have made known their desire to have courts held there more frequently. The present system, we were informed, with its long delays and multiple adjournments, makes little sense to the communities in their quest to maintain order and ensure the resolution of local problems in a timely fashion.

For whatever reasons, there are delays in the disposition of cases once charges have been laid. It has been reported that other offences are committed by individuals who are awaiting their cases to be heard in the courts. The court is thus seen as an ineffective means to control undesirable behaviour. Also, the longer the case is delayed before trial, the more chance there is that it will be lost due to a lack of witnesses. The end result is a lack of respect for the courts and the administration of justice. In addition, because of the remoteness of the communities, it presents a heavy financial burden upon people who are not in the wage-economy to be required to travel to distant court locations. This is especially acute for members of the communities who are charged with offences alleged to have occurred in Sioux Lookout.

Sioux Lookout

There is neither a locally-based criminal and youth court nor a resident Crown attorney in Sioux Lookout. When these courts are held, both the judge and Crown attorney come from Dryden and the proceedings take place in the Canadian Legion Hall. The Justice of the Peace holds weekly Provincial Offences Court. All of the courts are controlled from an office in Dryden. Sioux Lookout has a large permanent First Nations population and it is a place to which many residents from the four communities travel. For example, many residents need to go there for essential medical treatment at the Zone Hospital. It may be time to organize First Nations courts out of a Sioux Lookout location pending the development of aboriginal justice systems.

New Slate Falls

The court-related issue which was of the greatest concern to members of New Slate Falls was the Levius Wesley case. Levius Wesley, a New Slate Falls Elder, was beaten up and killed by two non-native youths in Sioux Lookout. The Crown sought transfer of the case to adult court and this was declined by the judge. No appeal against the refusal to transfer the case was taken by the Crown on the basis that the case-law, at that time, made it highly unlikely that any appellate court would approve such a transfer. (Since then the Supreme Court of Canada has made it clear that such transfers should occur in appropriate cases; but this decision came too late to affect the outcome of the

Levius Wesley case). At the trial in youth court, both youths pleaded guilty to manslaughter and were ordered into custody (one month secure custody, 29 months open custody). On further appeal against sentence by the Crown, this disposition was upheld by the Ontario Court of Appeal, largely on the ground that the youths had responded so positively to their custody orders that, in the view of the Court, it would not be appropriate to interfere with the original disposition even though a stiffer penalty may very well have been necessitated on the facts of the case.

The New Slate Falls community finds it hard to believe that, if two native youths had beaten up and killed an elderly non-native person in Sioux Lookout, they would have received the same treatment accorded to the two non-native youths in the Levius Wesley case. They point to cases in which native defendants have been sentenced to provincial reformatories for sentences up to two years less-a-day for non-violent offences against non-native property.

Transportation Problems and the Courts

An issue that creates problems for all four communities involves the cost of transportation to and from courts held outside the home community. Difficulties arise when adults and youths are brought in custody by police from reserves or communities and are released on bail into non-native communities and have no means to return home. A related problem involves arrested youths who are brought in custody from their communities to appear in courts in non-native centres without their parents being either present or having any reasonable opportunity to be there. It is almost impossible for the court to comply with the provisions of the Young Offenders Act in such cases, and it is doubtful if the Charter of Rights and Freedoms is being complied with in cases of this type.[33]

Language and Understanding Court Processes

In criminal and youth courts, proceedings are conducted in English with interpreters being provided to the accused, if requested. Witnesses may be left to fend for themselves. Interpreters who are used are often called upon, in an ad hoc fashion from those available in court, irrespective of their understanding of local dialects. Those members of the community who attend to observe the proceedings are often left in ignorance of what is transpiring since the proceedings are neither conducted nor translated in a language known to the majority of them.

It appears that the system has been designed solely to serve the interests of judges, defence counsel, Crown attorneys and police, none of whom can speak Ojibway or are First Nations people. The understanding of the process by members of the First Nations who are in court as accused, witnesses or spectators appears to be the least matter of concern. It is little wonder that

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[33] R. v. Sakakeesic and Loon (unreported decision of Bogusky Prov. Ct. J., October 23, 1984), pp.6-9.

the First Nations find the legal system alien when the system does so little to foster an understanding of its processes, practices and procedures in the language of the majority of the residents. The only court in which some progress has been made in this respect is the provincial offences court when it is conducted in Ojibway by Justices of the Peace who are First Nations people.

Directions for Change

Participants in the Euro-Canadian justice system from the police, Crown attorneys, defence counsel and judges spend the least amount of time possible in these northern reserves and communities. One community member aptly described the arrival of the court party as "falling out of the sky". Little or no attempt is made to bridge the cultural and linguistic gaps. Nor is time given to develop an understanding of the communities to be served. It is little wonder that the justice system is seen as foreign and repressive. In our view, the continuing imposition of the Euro-Canadian justice system is bound to fail.

In the short run, improvements can be made, for example, by judges spending more time in these communities so that they can gain some understanding of their needs. Justice committees composed of Elders and others in the community could be created and used to assist the court in sentencing, including becoming actively involved in probation-supervision. All participants in the justice system must take the time and effort to acquaint community members with the laws being administered. In fixing court dates, it is particularly important that they be set at times which respect First Nations traditional practices. For example, during the spring and fall duck-hunting season, many people are away from their communities and courts held at this time will essentially result in missing witnesses and arrest warrants being issued for absent defendants.

Some may suggest that what is needed is an infusion of First Nations people into the justice system in professional capacities as policemen, lawyers and judges. However, simply changing the players, when the problems are systemic and rooted in economic deprivation, will not suit the goals of the First Nations communities. Transfer of the roles of judges, Crown attorneys, lawyers and police to First Nations, without the establishment of aboriginal justice systems suitable to their needs, will simply result in the aboriginalization of the present system. Without more fundamental changes taking place, First Nations community members will continue to be prosecuted and jailed for maintaining and practising a traditional lifestyle, for being poor and for suffering from the criminal consequences of alcoholism and substance abuse. What is called for is First Nations sovereignty over First Nations territory with the goal of preserving the people, the land and the culture and that must clearly include control over their own justice system.

Recommendations

34.1 Courts must be held in the area where the offence is alleged to have occurred, preferably on the reserve. Proper court facilities must be built at Osnaburgh with the consent of the community.

34.2 There is an urgent need to deal with the transportation of both adults and youths brought in custody from reserves and communities and then released into non-native centres without means to return home.

34.3 Interpreters must be trained and simultaneous translation provided in Ojibway-speaking communities in order that not only the defendant but also the community may understand what is occurring in court.

34.4 No appointment of a judge to serve in Northern Ontario or to continue to serve in Northern Ontario should be made or continued without consultation with representatives of the First Nations.

34.5 Suitable First Nations people should travel with the judge to observe and be trained in the judicial process with a view to being appointed Justices of the Peace (J.P.).

34.6 After suitable training, two First Nations J.P.s acting together should undertake the work of the Provincial Court (Criminal Division) on reserves and communities until a First Nations judge can be appointed.

34.7 In each community, there should be a committee of community members whose function would be to provide information and advice to visiting J.P.s and judges considering appropriate sentences for individuals who have been found guilty by the court.

34.8 Criminal, family, youth and provincial offences courts should all be held in Cat Lake and Savant Lake.

35.1 A senior Crown attorney should be appointed for Northern Ontario in consultation with representatives of the First Nations to ensure that proper screening of cases occurs; that charges are properly brought; and that assistant Crown attorneys have adequate time and resources to prosecute effectively offences occurring on First Nations territory. This should be a new full-time appointment subject to review on a regular basis by the Attorney General of Ontario in consultation with representatives of the First Nations.

35.2 If proceedings are taken against police officers in criminal court or by way of the disciplinary process an independent prosecutor should be appointed and given sufficient time and resources to prepare and present the case effectively.

35.3 The Crown attorney for Northern Ontario should be mandated to develop a process, in consultation with representatives of the First Nations, whereby suitable cases may be diverted from the courts to be dealt with by traditional means or otherwise.

35.4 The Crown attorney for Northern Ontario should be mandated to develop a process, in consultation with representatives of the First

Nations, whereby the community leadership is kept apprised of the manner in which serious crimes committed in the community are being processed.

36.1 The system of paralegals and lawyers contemplated by the Nishnawbe-Aski Nation Legal Services Corporation should be fully-funded and asked to co-operate, with the Crown attorney for Northern Ontario and the First Nations communities, in developing alternative measures to court procedures for accused persons both adult and youths in appropriate cases. Such alternative measures should involve dealing with outcomes by traditional means or otherwise.

36.2 Duty counsel and defence counsel must spend more time with their clients in preparation of cases before the matters come to court.

36.3 A major problem arises in the north with the slow processing of legal aid applications. This is one of the major causes of delay and continual adjournments. The Nishnawbe-Aski Nation Legal Services Corporation should be requested as a matter of urgency to make recommendations on ways in which this whole process could be improved.

36.4 There should be an early evaluation to ascertain the appropriate roles for native courtworkers and paralegals, the numbers required and the funding necessary to provide an effective service including an adequate travel budget.

5. CORRECTIONS

Incarceration

It has been well-documented that First Nations people are disproportionately represented in the prison system and one well-known commentator has characterized the statistics for incarceration as "so stark and appalling that the magnitude of the problem can be neither misunderstood nor interpreted away."[34] Many of the crimes committed by aboriginal people in the South Windigo Tribal Council area, which result in eventual incarceration, involve alcohol or solvent abuse. The communities feel that sending people away from the community to jail is an inappropriate response where the root problem is socio-economic deprivation, exacerbated by the abuse of alcohol and other damaging substances.

In Osnaburgh, based on an analysis of the court cases for Pickle Lake in 1989, approximately 80% of all appearances for offences involved alcohol or solvent abuse (i.e. the accused had been abusing alcohol or solvents at the time when the offence was allegedly committed).[35] The residents of Osnaburgh feel that there is inefficient allocation of resources by non-native governments in addressing the problem. For example, more money appears to be spent on moving people back and forth from Osnaburgh to the Kenora jail - where they are fed and housed and salaries are paid to non-native correctional officers - than is spent on the treatment of alcohol and substance abuse. They believe that the present system of fines, leading to non-payment, the issuance of committal warrants and jail sentences totally fails to deal with the underlying socio-economic problems and simply provides work for non-native police, court and custodial personnel. From this perspective, the First Nations "drunk" can be seen as an important "commodity" in the non-native wage economy of Northern Ontario. The communities are of the view that judges, when considering sentencing, should be more aware of the significant problem of alcohol and substance abuse and be prepared to consider alternatives to imprisonment. There must be greater use made of programmes to treat not only the offender but also the offender's entire family. Any approach which refuses to address the desperate socio-economic living conditions as the root cause of alcohol and substance-abuse, and which fails to treat those symptoms by way of economic and medical intervention rather than punishment, is doomed to failure. Without such a holistic approach, the cycle will continue to repeat itself and more generations of First Nations people will be condemned to a life of illness, poverty and despair. In particular, there is a need for a youth rehabilitation centre, north of Sioux Lookout, to deal with the many youthful solvent-abusers who require long-term treatment since this form of addiction has shown itself to be particularly hard to overcome and all present facilities are over-booked and situated in Southern Ontario.

A major problem with sentencing is that many First Nations offenders are in correctional facilities for the non-payment of fines. Statistics from

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[34]Michael Jackson, op.cit., p.215.

[35]Original research by Committee.

the Ministry of Correctional Services of Ontario (1987 - 1988 Annual Report) indicates that 22% of people admitted to prison for fine default for provincial offences were First Nations members. This is a shocking statistic considering that First Nations make up only 4% of the general population. The extent to which poverty plays a massive role in the incarceration of First Nations people is illustrated by the fact that:

> "... almost half of all Ontario native Canadians admitted to prison are admitted for fine default whereas only approximately 1/3 of non-natives admitted to prison in Ontario are for fine default. Secondly, ... the default provisions of Provincial Offences Act have a harsher impact upon native Canadians as opposed to non-natives given the fact that nearly three-quarters of all native admissions for fine default were for provincial ... violations whereas slightly over one-half of non-native admissions were for provincial violations."[36]

This not only shows that too many non-natives may be in Ontario jails for non-payment of fines, but also indicates that, as usual, a dismal non-native statistic is surpassed by a more horrific First Nations one.[37]

Probation

There is a need for everyone to become more aware of the economic circumstances that face aboriginal people in these remote communities. For example, probation orders often ignore the cyclical nature of the northern economy. Restitution orders may be given in the winter when there is only summer-work available. This ignorance of the economic circumstances can lead to a high failure-rate for probationers. First Nations communities must become more involved in probation to ensure enforcement through ways and by means which are meaningful to the cultural and economic lifestyles of their members.

All of the communities experience problems with the current system of supervising probation orders. Adults and youths at Osnaburgh and New Saugeen Nation are supervised by non-native probation officers operating out of Sioux

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[36]John Whitehouse, "Custodial Sentences for Fine Default and Equality Before the Law", Student Term Paper for the Intensive Programme in Criminal Law, Osgoode Hall Law School, 1990.

[37]While it could be argued that many people with means-to-pay, chose to go to jail instead of paying and that it is improper to assume that committal warrants are evidence of poverty, in the case of First Nations people in Northern Ontario who are largely outside the wage economy, such an assumption is clearly more justifiable.

Lookout. Both Cat Lake and New Slate Falls have the benefit of probation-aides who are Ojibway-speaking residents and who undertake the supervisory work under the guidance of a probation officer. In addition, a full-time Ojibway-speaking probation officer from Weagamow Lake flies into Cat Lake to supervise Phase I youths.

There is a need for active recruitment of Osnaburgh and New Saugeen residents to act as probation-aides. In addition, better co-operation between the Ministry of Correctional Services and the Ministry of Community and Social Services could ensure that the same probation-aide could deal with both adult and youth probationers residing on the same reserve or community.

We understand that the unwillingness of Osnaburgh to become involved in this programme is related to a similar unwillingness to have courts sit on the reserve while the justice system is operating in its present fashion. Notwithstanding this unwillingness, it may be possible for Tikinagan Child and Family Services to undertake such a role for 12 - 15 year old youths in Osnaburgh and in other communities. It will, however, be necessary for appropriate personnel and funding to be arranged in order to expand Tikinagan's services beyond child welfare into probation and alternative measures for First Nations youth. Older youths and adults at Osnaburgh should be supervised in the community by a suitable probation-aide. This will require the consent and co-operation of the Osnaburgh community and the selection of a suitable candidate to undertake the work.

Parole

Not only is there systemic discrimination based upon economic disadvantage with respect to the non-payment of fines, there is also systemic discrimination when it comes to obtaining and fulfilling conditions of parole. It has been observed that, where there are more resources available, individuals are better able to cope with the conditions of parole. However, aboriginal people who are economically disadvantaged are less likely to be able to obtain parole and to abide by the conditions for their release, if parole is obtained. The future of corrections for native people looks bleak. Not only are they discriminated against - in that they are more likely to go to jail because of cultural and economic barriers - they are also more likely to remain in jail by not obtaining parole and to be returned to jail for parole violations.[38]

It would appear that the only solution to the elimination of such endemic barriers rests in the attainment by First Nations of autonomous native justice systems. The corrections system will remain largely irrelevant and meaningless for aboriginal people until they regain effective decision-making and the authority for implementing changes that are meaningful and relevant to the cultural and economic circumstances of the First Nations of the Windigo area. However, there are ways to minimize such systemic discrimination in the

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[38]Brian MacLean and R.S. Ratner, "An Historical Analysis of Bills C-67 and C-68: Implications for the Native Offender", Natives Study Review, Vol. 3, 1987, pp.31-58.

short-term. Some very practical improvements are presented in the paper by Michael Jackson entitled "Locking up Natives".[39] He calls for an affirmative action programme in hiring prison officials and parole officers with increased cross-cultural training so that truths, and not stereo-types, are learned. He further observes that the allowance of parity for native spirituality with other religions would provide an important and positive influence on native prisoners. It would allow them to acquire a sense of identity, self-worth and pride.

Finally, and perhaps most importantly, it is imperative that Windigo First Nations communities become more involved in all stages of corrections from the determination of sentences to parole conditions and after-care programmes for released inmates.

Recommendations

37. Probation for aboriginal adults and youths should be supervised by a First Nations person who shares the language and culture of the probationers and who resides on the same reserve.

38. Better co-operation between the Ministry of Correctional Services and the Ministry of Community and Social Services could result in the same First Nations probation-aide supervising both adults and youths on the same reserve.

39. First Nations custodial facilities staffed by properly trained First Nations persons and answerable to a First Nations board of governors should be created at suitable locations in the north to handle adult and youth detainees from First Nations territories in the central part of Northern Ontario. These facilities must offer programmes for education, work, counselling, spiritual support and recreation.

40. Tikinagan Child and Family Services should be properly funded to extend its services to Phase I youths (12 - 15 years) not only to supervise probation orders but also to work on alternative measures to avoid court proceedings in appropriate cases.

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[39]Jackson, op. cit., pp.282-298.

6. INQUESTS AND ABORIGINAL DEATHS

A coroner's inquest is a public inquiry into a death; a unique window of opportunity for society, by way of a jury composed of six of its members, to inquire into the practices of public institutions, officials and others with a view to making recommendations, where possible, to prevent future deaths of a similar nature. Obviously, in such cases, it is not proper for public institutions to evaluate their own performance, practices and procedures; hence, the need for the coroner's jury. A coroner's inquest can put institutions under a microscope in a way that no institution can do for itself. In addition, allowing standing to those who have a particular expertise or who can be of assistance to the jury in its inquiry, expands public participation. Another important justification for a coroner's inquest is to assist in quelling baseless rumours. This can be of great importance to a small First Nations community where the death of one member has such a profound effect since such a community tends to be close knit, bound by kinship, marriage or friendship.

The Coroners Act provides for a mandatory inquest in certain circumstances, for example a death in police custody; but, in many other cases the question of whether an inquest should or should not be called is entirely at the discretion of a coroner.

The purpose of an inquest can include any of the following:

1. Determining the facts surrounding the death, i.e. the identity of the victim, the date, time, place and medical cause of death.

2. Identifying health and safety hazards that require a remedy or immediate action.

3. Quelling baseless rumour and speculation surrounding controversial deaths.

4. Bringing to the public-at-large, notice of the conditions and circumstances surrounding the death.

5. Preserving a record of the circumstances of unexplained deaths.

As previously mentioned, the Scott McKay Bain Health Panel Report noted in 1989 that there had been no less than 85 violent deaths over the previous eight years at Osnaburgh, a community of just over 700 people. In 1983 a young Osnaburgh boy, aged 12 years, went missing on the reserve. Three weeks later his body was found in the bush and an autopsy revealed that the youth had one of the highest blood-alcohol levels ever recorded in North America. (1,434 mgs. per 100 ml. of blood). Considering that 80 mgs. per 100 ml. of blood is the legal limit for driving and that 500 mgs. per 100 ml. of blood is usually considered fatal, this blood-alcohol level in a 12-year old boy was nothing short of astounding. On the same reserve, seven children ranging in age from 6 to 12 years died when the stove in the cabin where they were staying, overheated and ignited the cardboard insulating the walls. There were no

windows; flames barred the single door. Further, Chief Kaminawaish reported that between 1985 - 1987 of 13 deaths at Osnaburgh, 10 were accidental or violent with 8 being alcohol-related.

In none of these cases was an inquest called; yet, should such tragic events have occurred in Southern Ontario, members of this Committee are confident that numerous inquests would have been held.

The cause of death of the youth of 12 years of age from massive alcohol poisoning may well have been due to self-administered consumption of alcohol; but the contributing factors and other possibilities ought to have been publicly examined for the purpose of ascertaining how the event occurred, preventing a recurrence and publicizing the facts surrounding such a tragic fatality.

Cat Lake members advised the Committee that they were concerned over the death of an Elder in Sioux Lookout enroute to Winnipeg for medical treatment. No inquest was called, and death was attributed to affixiation caused by vomit in the lungs occasioned by a deadly combination of alcohol and medication. Rumours prevail in the community over this death and over the deaths of two other residents. This resulted in the community not feeling fully informed about the circumstances surrounding any of these events.

The Committee was advised of the death of a Sandy Lake resident who, while in police custody, allegedly fell from a moving police vehicle. That, of course, should call for a mandatory inquest. To date, no inquest has been held. Rather, the coroner advised that he, together with the Crown attorney, was going to speak to the Chief about the circumstances surrounding the death.

The Northwest Patrol and the Zone Hospital staff in Sioux Lookout reported that there is an extremely high rate of suicide by native youths; on average, attempted suicide occurs once daily and results in death once monthly - usually by young males hanging themselves. No inquests are called to investigate the circumstances surrounding these deaths. Even if identity, date, time, place, and cause of death are known, there are additional objectives for holding discretionary inquests, as was made clear earlier. More consideration should be given to these factors in deciding whether or not to call an inquest.

The reluctance to hold inquests may be attributed, in part, to the problems of language and culture. The coroner is a medical doctor; his investigators are members of the Ontario Provincial Police and his counsel is the Crown attorney. None of them is a First Nations person. All are part of what is perceived as an alien justice system, lacking ability to conduct an inquest or proceedings in the language of the community. Surely, such a state of affairs cannot be a justifiable reason for failure to call inquests. As the Scott McKay Bain Health Panel Report has documented, 15% of the population of Osnaburgh has succumbed to violent deaths over an 8 year period. If such events had occurred in any non-native community in Ontario, it is difficult to believe that no inquests would have been held. Are the lives of First Nations members not as valuable as those of non-native people in our society? How can it be that so many of them can die in such circumstances without any public inquiry or other publicity concerning their fate?

In a case where an inquest was held, we were informed that it was concluded even though the non-native driver of the vehicle involved failed to respond to his subpoena and neither attended nor gave evidence at the hearing. It was alleged that this vehicle had run over and killed an Osnaburgh resident on Highway 599. Thus it appears to First Nations people that when inquests are actually held, everything is not necessarily done to ensure that the full facts are ascertained.

There must be put in place a policy of ensuring proper inquests in these northern communities structured to meet the language and cultural barriers that exist and designed to ensure that large numbers of preventable deaths are avoided or, at least, do not go unnoticed. The value of holding such public inquests would bring to the attention of those in Southern Ontario the despair, poverty and extreme social problems that exist in these northern First Nations communities. Then, perhaps, all the people of Ontario, with this knowledge in mind, may demand from all levels of government the changes that are essential to alleviate such appalling conditions. The recommendations of this Committee are intended to identify some of the fundamental changes that must be undertaken.

Recommendation

41. More inquests should be held in a full and complete manner in order to play a preventive role and to provide an educational basis for the community to identify why people died, to dispel rumours about how the deaths occurred and to draw public attention to the dreadful socio-economic conditions which play a significant role in many avoidable deaths in these communities.

7. FIRST NATIONS ORGANIZATIONS AND JUSTICE ISSUES

Notwithstanding the lack of funding for such activities, the Committee was most impressed with the quality of oral and written presentations made to it by the Chiefs and Councils and by the various First Nations organizations, all of whom we have identified in the reference section of this Report.

What is clear to the Committee is that these organizations have day-to-day knowledge of the problems and have identified many of the actions necessary for real change to occur.

It is, in our view, essential that both the federal and provincial governments fully involve First Nations and their organizations in decisions to deal with the heart-breaking human disaster which epitomizes conditions in this part of Northern Ontario.

Many federal and provincial agencies are already involved in, and much money is spent on, providing mainly non-native service-providers with good jobs in "looking after" First Nations people. One must not therefore assume that the native people are ignored by the present system. On the contrary there are myriad ministries, departments and agencies with programmes that "service" First Nations needs. At the federal level, these include the Department of Indian Affairs and Northern Development; Secretary of State; National Health and Welfare; Industry, Science and Technology Canada (Native Economic Development Programme); Canada Employment and Immigration Commission; and FEDNOR. At the provincial level these include, the Ontario Native Affairs Directorate, Ministry of Northern Development and Mines, Ministry of Culture and Communications, Ministry of Citizenship, Ministry of Tourism and Recreation, Ministry of Community and Social Services, Ministry of Correctional Services, Ministry of Natural Resources, Ministry of Skills Development, Ministry of Municipal Affairs, Ministry of Housing, Ministry of the Solicitor General, Ministry of Consumer and Commercial Relations and Ministry of the Attorney General.

How can an individual First Nation or First Nations organization deal with this welter of bureaucracy? Is a joint federal-provincial solution, avoiding this complexity and providing a comprehensive way of inter-facing with First Nations organizations beyond our capability of devising? Could it be that, if all of the resources ear-marked for First Nations programmes above were to be pooled and made available to First Nations directly, more of the money would reach the reserves and communities? Dependency, however, is the problem - not the solution. Only internal political autonomy and economic self-sufficiency will radically alter this depressing pattern.

In working from the present model towards the new arrangements, it will be essential for the federal, provincial and First Nations governments to work together to recognize the First Nations as responsible and accountable for their own future within Ontario and Canada; a future in which justice-related issues will be dealt with in the much broader context of sovereignty, economically viable land bases and aboriginal justice systems.

Recommendations

42. The Nishnawbe-Aski Nation, the Windigo Tribal Council and the First Nations themselves must be closely involved in devising solutions with Canada and Ontario. Whether the initiative involves socio-economic issues or relates to policing, courts or corrections, the representatives of the First Nations organizations must be fully engaged in devising their own solutions for what has been rightly described as the domestic issue most noted to Canada's disadvantage on the international stage.

43. A committee comprising representatives of Canada, Ontario and the First Nations should be appointed to oversee the implementation of these recommendations without delay.

"Our people have retained, with what many observers have described as extraordinary tenacity, the central core of their beliefs, values and cultures. We have no doubt about our continued survival, far into the future. We are not going anywhere. And the Canadian political system will have to treat us as a permanent and important, part of this country."

George Erasmus
National Chief
Assembly of First Nations

Boyce Richardson (ed.), DRUMBEAT: Anger and Renewal in Indian Country, Summerhill Press and Assembly of First Nations, 1989, p.296.

D. SUMMARY OF RECOMMENDATIONS

Background

In the view of the Committee, it is impossible to examine how the justice system impacts on these First Nations communities without looking at the underlying issues and for this reason our Report deals with land, economic and social matters as integral parts of how the criminal justice system operates in this part of Northern Ontario.

Overall Goal

1. The main goal of all of these recommendations is to ensure that the four communities are healthy, strong and vibrant. This can be accomplished by identifying both general and specific objectives. The general ones must, in our view, include recognition of

(a) sovereignty;

(b) economically viable land bases; and

(c) the development of aboriginal justice systems, whether traditional or otherwise,

for the First Nations people who represent the vast majority of the permanent, long-term residents north of latitude 50°N in present day Ontario. Each of the federal, provincial and First Nations governments and the non-native and First Nations peoples in the South Windigo area has a vital role to play and must be committed to meeting these objectives. More specific objectives will also be identified throughout and will form the basis of additional recommendations.

Land and Economic Development

2. New Slate Falls and New Saugeen Nation (Savant Lake) should be granted reserve status under the Indian Act in order to become eligible for infrastructure-funding from the Department of Indian Affairs and Northern Development. Such status was promised by The Honourable David Crombie when he was the Minister of Indian Affairs and Northern Development and was subsequently refused by his successor The Honourable William McKnight. Although this is a federal matter, the Province of Ontario should assist both bands in pursuing reserve status as an essential step towards other solutions.

3. Even if reserve status were to be granted to New Slate Falls and New Saugeen Nation, both they, Cat Lake and Osnaburgh would still not have a sufficient land base in order to be economically viable. Therefore, all four bands require access to larger tracts in the areas surrounding their present locations to ensure economic viability and to act as a buffer against all activities which would have negative impacts on First Nations traditional economic activities such as hunting, trapping, fishing and gathering.

4. All four communities should have representation, as of right, in the decision-making processes on natural resource use and economic development in the areas surrounding their locations. They must be involved in co-management and planning board initiatives and be able to object to development incompatible with traditional economic activities. Access to royalties, jobs, training, apprenticeships, scholarships and contracts for goods and services to be supplied to development projects, must be assured to First Nations in the area. In addition, proper compensation must be paid in any case of loss of hunting, trapping, fishing or gathering that has been or would be caused by development.

5. The four communities must actively plan, develop and implement strategies to improve their socio-economic conditions and the federal and provincial governments must provide financial and technical assistance for this process to be undertaken.

Health and Well-Being

Housing

6. The housing situation in all four communities is hopelessly inadequate both in numbers and quality, resulting in overcrowding and unsanitary living conditions. All three governments must co-operate in increasing the availability of decent housing and in ensuring that it conforms to the type of accommodation that the communities have a desire to live in. All three housing settlements at Osnaburgh should be sign-posted on Highway 599 with warnings that children and pedestrians are in the vicinity and all three locations should also have speed reductions from 80 km/h to 60 km/h, properly posted by the Ministry of Transportation.

The Supply of Clean Drinking Water, Bathing Facilities, Sewage Disposal and Hydro Power

7. The homes of the First Nations people on all four communities lack a supply of clean drinking water, bathing facilities and any sewage disposal system. All three governments must take immediate steps to provide such basic requisites of public health, the absence of which leads to the classic third-world illnesses of gastro-enteritis, otitis media, and streptococcal infections. New Slate Falls must be connected to the hydro-power line that passes in the immediate vicinity of the community.

Recreational Facilities and Programmes

8. There is a total lack of recreational facilities or programmes on or near all of the communities other than Osnaburgh which only acquired a recreational facility in 1990 and has access to the hockey arena in Pickle Lake. This lack in three of the communities contributes to boredom in youths who then seek inappropriate outlets for their energies, for example, alcohol and solvent abuse. All three governments must co-operate in ensuring the building and operating of recreational facilities and programmes in all of the communities.

Alcohol, Drug and Solvent Abuse

9.1 While all four communities have problems of this nature, Osnaburgh and New Saugeen Nations appear to suffer most acutely in this respect. All need to develop an alcohol, drug and solvent abuse strategy for their communities.

9.2 There is a desperate need for a First Nations-operated, family-oriented alcohol, drug and solvent abuse rehabilitation programme in the South Windigo area. Any system which purports to treat the addict and then sends him or her back to the situation which contributed to the problem, provides no solution. Both the family and the community-milieu have to change as well as the patient. A remote location to assist, in some cases, with family removal should be coupled with assistance within the community.

9.3 There is a major concern that existing drug and alcohol counsellors lack adequate training and resources to perform their difficult tasks properly and it is essential that they receive such training and support.

9.4 Public education on the effects of alcohol, drug and substance abuse should be introduced in the primary grades of school and developed further into general education programmes for the community-at-large.

9.5 Community patrols to seek and maintain in a safe place those who are under the influence of alcohol, drugs or solvents should be supported by federal and provincial funding. The patrols have been very effective in preventing deaths and injuries and they provide a better alternative to the arrest, fine, non-payment and committal warrant approach which tends to follow police intervention in such cases.

Family Violence

10.1 The first priority in family violence must be the immediate protection of victims (almost always wives and children) by the police, Tikinagan Child and Family Services or other means of intervention.

10.2 The second priority is to provide temporary shelter to victims until they can be physically healed and commence the process towards emotional health.

10.3 The third priority must be the recognition of counselling needs for the batterers (almost always husbands) who may themselves have been the victims of battering in childhood and, of course, counselling for the victims.

10.4 All of the above will require co-operation between First Nations leadership and police and will also require the provision of healing lodges where the process of renewal can be undertaken. All three governments must co-operate in ensuring that these priorities are identified and necessary remedial action taken along the lines set out in the body of this Report as suggested by the Ontario Native Women's Association.

Health Facility at Osnaburgh

11. Health facilities are grossly inadequate at the Osnaburgh Nursing Station. Although the Committee recognizes that delays in replacing this facility have been, in part, caused by the lack of a community decision on the health care model which it desires to pursue, effective medical services are urgently required and a decision on the appropriate model should not be unduly delayed.

Culture and Language

12. There must be official tolerance for, and accommodation to, the traditional lifestyle of hunting, trapping, fishing and gathering of the four communities.

13. All federal and provincial laws and regulations should be examined to ascertain those which bear negatively upon the traditional economic pursuits of the First Nations people with a view to accommodating them to the native lifestyle.

14. Particular problems are experienced by New Saugeen Nation members over the proximity of both Treaty No. 3 and Treaty No. 9 boundaries in the vicinity of Savant Lake. Arbitrary enforcement practices are viewed as resulting in inflexible applications of game and fish laws to the discouragement of First Nations people in pursuing their traditional activities. This problem should be immediately addressed by all interested parties. A co-management board comprising First Nations and provincial representatives should control such issues in the future.

15. There is a massive need for cross-cultural training whereby the non-native participants in the justice system learn of the First Nations cultures and languages and vice-versa. Schools, universities and professional training institutions must address this gap in the educational system as a matter of urgency.

16. Treaties 3 and 9 were drawn up for multi-lingual parties; but they were prepared in English only. Studies should be undertaken to ascertain the extent to which such documents can be effectively translated into Ojibway and Cree as part of the task of ascertaining their meaning.

17. If federal and provincial laws are to be enforced on First Nations people in the four communities, they should be translated into Ojibway and explained to First Nations in their own language.

18. Trained interpreters, sensitive to local dialects, should be available not only to translate English "proceedings" to the accused but also to the attending community in court. The English-speaking police, Crown attorneys and defence counsel should also have interpreters when they are engaged in professional tasks involving First Nations members.

19. Official documents in English and French should also be available in syllabics to First Nations peoples in Northern Ontario.

20. Many native behavioral traits create difficulties and misunderstandings within the adversarial court system. Avoidance of eye-contact and the avoidance of saying negative things to another's face can be routinely misread by Euro-Canadians as lack of credibility, or inability or unwillingness to prosecute an alleged crime. This requires immediate attention by all parties in the present system.

21. The massive problems of translation, interpretation and cultural misunderstandings involved in the preceding recommendations can be avoided by recognizing traditional justice initiatives which would be conducted in Ojibway where this was the first language of a given community. Attempts to develop traditional justice systems should not be viewed as creating a second-class system, in the Committee's view, since what we have now is most certainly not a first-class system, viewed from the perspective of the First Nations.

Education

22. One of the central goals of the First Nations communities must be to improve the educational standards of all of their children. There is a need, and it will continue into the future, for these communities to have within them the capacity to be fluently bilingual in Ojibway and English in both oral and written forms. It will be essential for them to possess the technical skills necessary to meet non-native society on an equal footing while at the same time ensuring that the communities control their own destinies through their own institutions.

23. Parents must take responsibility for the proper education of their children. This means ensuring that the children attend class and encouraging them to finish high school, college or university where appropriate. Parents must also take an active interest in finding out what their children are being taught in school and in participating in the design of an appropriate curriculum to include traditional language and cultural training in addition to core-subjects in the provincial educational system.

Relations With Non-Native Communities

24. A race relations committee should be set up comprising representatives of Osnaburgh and Pickle Lake in order to promote understanding and better relationships between the communities.

25. Insufficient attention has been paid to the fact that the First Nations people are the only permanent residents in the far north of Ontario. As such, they should be represented in federal and provincial ridings where First Nations form the majority, in addition to whatever arrangements are developed for self-government. In this way, the permanent residents would have a unique voice in federal, provincial and self-government bodies - all of which are sadly lacking at the present time.

26. Nothing in these recommendations should delay or interfere with, and any action taken hereunder should be without prejudice to, the development of First Nations self-government initiatives at the constitutional level or locally with pilot projects or other experiments, implementing aspects of self-government.

Administration of Justice

27. The general goal ought to be to encourage and financially support First Nations in their aspirations to develop aboriginal justice systems suitable to the needs of their communities. For example, Osnaburgh has identified the following timetable as being feasible for a five-year plan: a) development - two years; b) community preparation and education - one year; c) implementation - one year; d) evaluation - one year. All of the recommendations which follow may, of course, be accepted in whole, or in part, or be rejected outright by First Nations as they develop the kinds of aboriginal justice systems which they see as relevant to the needs of their communities.

Policing

28. Policing in the north of Ontario - from a point to be determined by negotiation between the First Nations and the Province of Ontario - should be undertaken by a First Nations police service controlled by a police commission comprising a majority of First Nations members. First Nations police would have authority to enforce federal, provincial and First Nations laws until the details of sovereignty/self-government are clarified.

29. The South Windigo area could be a division within that police structure. The selection of suitable candidates would be done in full consultation with the First Nations community to be policed. Personnel for this First Nations police service would include recruitment from existing First Nations Constables in the current Ontario First Nations policing arrangements and from First Nations members of the Ontario Provincial Police.

30. The above recommendations should be phased-in by agreement with the Province of Ontario and in the closest possible co-operation with the Ontario Provincial Police with whom good relations should be fostered both during and after the transition period.

31. During the transition phase, no member of the Ontario Provincial Police should be posted to detachments north of 50°N latitude or remain there without receiving proper training and education on the First Nations peoples, their languages and culture.

32. In the view of the Committee, the First Nations Police Commission, when established, should resolve the following matters and, in the meantime, the Ontario Provincial Police should review their present arrangements with a view to making improvements, where applicable:

32.1 there must be adequate policing services in each of the four communities;

32.2 Osnaburgh in particular requires a major reappraisal of how policing services should be provided on that territory with a view to creating a sense of safety and security for the residents and ensuring proper police facilities there;

32.3 despite the relatively low population base, New Saugeen Nation should immediately receive preventive policing to assist in maintaining the peace and encouraging better relations between First Nations members and the non-native population of Savant Lake, both of whom have suffered from a lack of visible police presence in the past;

32.4 the development of a policy for dealing with public drunkenness in a manner which reduces or eliminates dependence on arrest, fine, non-payment and committal warrant proceedings as a suitable strategy;

32.5 the development of distinctive uniforms and insignia which would enhance identification with First Nations communities, including whether firearms need to be visibly carried at all times (as opposed to being available for use in appropriate cases);

32.6 development of a system of investigating citizen complaints against the police which would ensure the independence and objectivity of the investigator;

32.7 development of a communications policy whereby the results of investigations would be reported to the community in a manner which would provide adequate information to reduce or eliminate baseless rumours and speculation.

Conservation Officers

33. Conservation duties in the north of Ontario - from a point to be determined by negotiation between the First Nations and the Province of Ontario - should be undertaken either by the First Nations police service described earlier following suitable training, or by conservation officers answerable to a co-management Board which would employ a majority of First Nations members in such work.

Courts

34.1 Courts must be held in the area where the offence is alleged to have occurred, preferably on the reserve. Proper court facilities must be built at Osnaburgh with the consent of the community.

34.2 There is an urgent need to deal with the transportation of both adults and youths brought in custody from reserves and communities and then released into non-native centres without means to return home.

34.3 Interpreters must be trained and simultaneous translation provided in Ojibway-speaking communities in order that not only the defendant but also the community may understand what is occurring in court.

34.4 No appointment of a judge to serve in Northern Ontario or to continue to serve in Northern Ontario should be made or continued without consultation with representatives of the First Nations.

34.5 Suitable First Nations people should travel with the judge to observe and be trained in the judicial process with a view to being appointed Justices of the Peace (J.P.).

34.6 After suitable training, two First Nations J.P.s acting together should undertake the work of the Provincial Court (Criminal Division) on reserves and communities until a First Nations judge can be appointed.

34.7 In each community, there should be a committee of community members whose function would be to provide information and advice to visiting J.P.s and judges considering appropriate sentences for individuals who have been found guilty by the court.

34.8 Criminal, family, youth and provincial offences courts should all be held in Cat Lake and Savant Lake.

35.1 A senior Crown attorney should be appointed for Northern Ontario in consultation with representatives of the First Nations to ensure that proper screening of cases occurs; that charges are properly brought; and that assistant Crown attorneys have adequate time and resources to prosecute effectively offences occurring on First Nations territory. This should be a new full-time appointment subject to review on a regular basis by the Attorney General of Ontario in consultation with representatives of the First Nations.

35.2 If proceedings are taken against police officers in criminal court or by way of the disciplinary process an independent prosecutor should be appointed and given sufficient time and resources to prepare and present the case effectively.

35.3 The Crown attorney for Northern Ontario should be mandated to develop a process, in consultation with representatives of the First Nations, whereby suitable cases may be diverted from the courts to be dealt with by traditional means or otherwise.

35.4 The Crown attorney for Northern Ontario should be mandated to develop a process, in consultation with representatives of the First Nations, whereby the community leadership is kept apprised of the manner in which serious crimes committed in the community are being processed.

36.1 The system of paralegals and lawyers contemplated by the Nishnawbe-Aski Nation Legal Services Corporation should be fully-funded and asked to co-operate, with the Crown attorney for Northern Ontario and the First Nations communities, in developing alternative measures to court procedures for accused

persons both adult and youths in appropriate cases. Such alternative measures should involve dealing with outcomes by traditional means or otherwise.

36.2 Duty counsel and defence counsel must spend more time with their clients in preparation of cases before the matters come to court.

36.3 A major problem arises in the north with the slow processing of legal aid applications. This is one of the major causes of delay and continual adjournments. The Nishnawbe-Aski Nation Legal Services Corporation should be requested as a matter of urgency to make recommendations on ways in which this whole process could be improved.

36.4 There should be an early evaluation to ascertain the appropriate roles for native courtworkers and paralegals, the numbers required and the funding necessary to provide an effective service including an adequate travel budget.

Corrections

37. Probation for aboriginal adults and youths should be supervised by a First Nations person who shares the language and culture of the probationers and who resides on the same reserve.

38. Better co-operation between the Ministry of Correctional Services and the Ministry of Community and Social Services could result in the same First Nations probation-aidé supervising both adults and youths on the same reserve.

39. First Nations custodial facilities staffed by properly trained First Nations persons and answerable to a First Nations board of governors should be created at suitable locations in the north to handle adult and youth detainees from First Nations territories in the central part of Northern Ontario. These facilities must offer programmes for education, work, counselling, spiritual support and recreation.

40. Tikinagan Child and Family Services should be properly funded to extend its services to Phase I youths (12 - 15 years) not only to supervise probation orders but also to work on alternative measures to avoid court proceedings in appropriate cases.

Inquests and Aboriginal Deaths

41. More inquests should be held in a full and complete manner in order to play a preventive role and to provide an educational basis for the community to identify why people died, to dispel rumours about how the deaths occurred and to draw public attention to the dreadful socio-economic conditions which play a significant role in many avoidable deaths in these communities.

First Nations Organizations and Justice Issues

42. The Nishnawbe-Aski Nation, the Windigo Tribal Council and the First Nations themselves must be closely involved in devising solutions with Canada and Ontario. Whether the initiative involves socio-economic issues or relates to policing, courts or corrections, the representatives of the First Nations organizations must be fully engaged in devising their own solutions for what has been rightly described as the domestic issue most noted to Canada's disadvantage on the international stage.

43. A committee comprising representatives of Canada, Ontario and the First Nations should be appointed to oversee the implementation of these recommendations without delay.

ᐅᓇᓭᒧᓇᓐ ᑫᓂ ᐃᔑᓇᑯᓯᑲᑌᒃ ᑎᐸᑯᓂᑫᐧᐃᓐ ᐊᓄᑭᐧᐃᓐ

ᑫᑯᓃᓐ ᑲᐧᐃ ᑕᔑᑕᒪᑎᓇᓄᒃ ᐅᒪ ᑎᐸᒋᒧᐧᐃᓂᓐᒃ

ᑲᑭ ᓇᓇᑲᓯᓯᑲᑌᒃ ᐊᓂᓐ ᐁᔑᓴᒃ ᑎᐸᑯᓂᑫᐧᐃᓐ ᐱᒧᓐᒋᑫᐧᐃᓐ ᐅᒪ ᑭᐧᐁᓐᑎᓄᓐᒃ ᓂᐧᐃᓐ ᑕᔑᑫᐧᐃᓂᒃ ᑭᐃᔑᓴ ᐁᑲ ᐁᑕ ᑎᐸᑯᓂᑫᐧᐃᓐ ᒋ ᐧᐊᐧᐊᐸᒋᑲᑌᒃ ᑲᔦ ᐱᑯ ᐊᐦᑭ ᒥᓇ ᓭᓂᔭᑫᐤ ᐱᒧᒋᑫᐧᐃᓇᐤ ᐁᐧᑲ ᒥᓇ ᑲᑭᓇ ᑫᑯᐤ ᑲᐃᔑᓴᒃ ᐱᒪᑎᓯᐧᐃᓂᒃ ᑲᔦ ᐧᐃᒋᐱᒪᑎᓯᒥᑎᐧᐃᓂᒃ᙮

ᑫᓂᔑ ᑲᒋᑎᓂᑫᒪᑲᑭᐤ ᐅᓄ ᐅᓇᓭᒧᐧᐃᓇᓐ

1. ᐅᓄ ᓂᐧᐃᓐ ᑕᔑᑫᐧᐃᓇᓐ ᒋ ᒥᓄᔭᒪᑲᑭᓐ, ᒋ ᒪᐢᑲᐧᐃᓯᒪᑲᑭᓐ ᑲᔦ ᐱᑯ ᐁᑲ ᑫᑯ ᒋ ᓇᓂᓇᒥᓴᒃ᙮ ᑕ ᐃᔑᓇᐧᑲᓐ ᑕᐢ ᑭᒋᐅᑭᒪᓇᒃ ᒋᓂᓯᑕᐧᐃᓂᑲᑌᑭᓐ ᐅᓄ ᓂᐢᐧᐁ ᑫᑯᓇ; ᐊᓂᔑᓇᐯ ᑎᐯᓂᒥᑎᓯᐧᐃᓐ, ᒋ ᑌᐱᓴᒃ ᐊᐦᑭ ᒋᑭ ᐅᑕᒋᐅᓇᓄᒃ ᑲᔦ ᒋ ᐅᔑᒋᑲᑌᒃ ᐊᓂᔑᓇᐯ ᑎᐸᑯᓂᑫᐤ ᐱᒧᓐᑕᒪᓯᐧᐃᓐ ᑲᔭᐢ ᐃᔑᒋᑫᐧᐃᐤ ᐧᐃ ᐱᒥᓂᓴᐃᑲᑌᒃ ᓇᓐᑕ ᐱᑯ ᑭᔭᒻ ᑯᑕᒃ ᐃᔑᓇᑯᒋᑫᐧᐃᓐ᙮ ᐊᒥᐅᐧᐁ ᑫᐃᔑ ᑲᐧᑫ ᑲᒋᑎᓇᒪᓯᐧᐊᑦ ᐊᓂᔑᓇᐯᒃ ᐅᐧᐁᑎ ᑭᐧᐁᓐᑎᓄᒃ ᐅᓐᑌᑎᐅ ᐊᐦᑭᐤ ᑭᑭᓇᐧᐊᒋᒋᑫᐧᐃᓂᒃ 50 ᑲ ᐃᔑᐱᐃᑲᑌᒃ ᑳᐃᔑ ᐱᒪᐱᑫᓯᒃ᙮

ᐊᐦᑭ ᒥᓇ ᓭᓂᔭᑫᐧᐃᓐ ᒪᒋᑕᐧᐃᓇᓐ

2. ᓭᓂᔭᐅᑭᒪ ᐅᑕ ᐸᑭᑎᓇᓐ ᐃᐢᑯᓂᑲᓐ ᐃᒪ ᐸᑭᔨᔭᐱᑯᐸᐧᐃᑎᒃ ᒥᓇ ᐧᓴᑭᓐ ᓃᔑᓐ᙮ ᓭᓂᔭᓐ ᑲᔦ ᒋᐸᑮᑎᓂᑎᐸᓐ ᑫ ᐅᓐᒋ ᐧᐊᐧᐁᔑᑕᓂᐧᐊᓐ ᐅᓄ ᑕᔑᑫᐧᐃᓇᓐ᙮ ᑲᑭᓇ ᑫᑯᓐ ᑲᐊᐸᒋᑕᐧᐃᓂᐧᐊᒃ ᑕᔑᑫᐧᐃᓂᒃ ᑲ ᐊᓐᑕᐧᐁᓐᑕᐧᑲᑭᒃ ᐃᒪ ᓂᔑᓐ ᑕᔑᑫᐧᐃᓂᒃ᙮ ᐅᓐᑌᑎᐅ ᑕ ᐧᐃᑐᑲᑫᐸᓐ ᐃᐢᑯᓂᑲᓐ ᒋᐃᓇᑭᑌᓂᑭᓐ ᐅᓂᐧᐁᓂᐧᐊᓐ ᓂᔑᓐ ᑕᔑᑫᐧᐃᓇᓐ᙮

3. ᐅᓄᐧᐁᓂᐧᐊᓐ ᓂᐧᐃᓐ ᑕᔑᑫᐧᐃᓇᓐ ᑲᐧᐃᓐ ᑌᐱᓴᓯᐧᐊᒃ ᐊᐦᑭᓂ ᐧᑲᔭᒃ ᑫᑭ ᐅᑕᒋᐅᐧᐊᑦ ᐊᓂᔑᓇᐯᒃ᙮ ᓇᑕᐧᐁᓐᑕᐧᑲᓂᓂ ᓇᐧᐊᓪ ᒋᒥᓴᓂᑭᐸᓐ ᐊᐦᑭᓂ ᑫ ᑎᐯᓐᑕᒧᐧᐊᓪ ᐧᐊᑲᐦᐃ ᐅᑕᔑᑫᐧᐃᓂᐧᐊᒃ ᑫᒋᓇ ᒋᑭ ᐅᑕᒋᐅᐧᐊᑦ ᑲᔦ ᐁᑲ ᐯᓭᓪ ᒋᓂᔑᐧᐊᓇᒋᒋᑲᓂᐧᐊᓂᓂᓐᒃ ᑲᑕᔑ ᓇᓇᑕᐧᐁᓐᒋᑫᐧᐊᑦ, ᐧᐊᓂᐃᑫᐧᐊᑦ ᑲᔦ ᑭᓄᔨᑫᐧᐊᑦ ᐊᓂᔑᓇᐯᒃ᙮

4. ᐅᓄ ᓂᐧᐃᐣ ᑕᔑᑫᐧᐃᓇᐣ ᐅᑕ ᐊᔭᐧᐊᐧᐊᐤ ᐅᑭᑭᓇᐧᐊᒋᐢᑲᒪᑫᐣ ᑕᐧᓴ ᑲᐅᓇᐱᒋᑲᑌᓂᐣᒃ ᐅᓀᐣᑕᐣᐧᐃᓇᐣ ᐊᐱ ᐊᐦᑭᒃ ᑫᑯᐣ ᐁᐧᐃ ᐊᐸᑕᒃ ᑲᔦ ᒉᓂᔭᑫᐧᐃᐣ ᑲᐧᐃ ᒪᒋᑕᓂᐧᐊᒃ ᐃᐃᒪ ᐧᐊᑲᐦᐃ ᐅᑕᔑᑫᐧᐃᓂᐧᐊᐣᒃ᙮ ᐊᓂᔑᓇᐯᒃ ᒋᑭ ᓇᑲᓂᔕᐊᒪᑫᐧᐊᑦ ᑫᑯᐤ ᑲᐃᔑᓇᐧᑲᒃ ᒋ ᐧᐊᓇᒋᑫᒪᑲᒃ ᐊᓂᔑᓇᐯ ᐱᒪᒋᐅᐧᐃᓂᒃ᙮ ᐁᐧᑲ ᒥᓇ ᒋᑫᒋᓇᐅᐧᐊᑦ ᑫᐧᐃᓇᐧᐊ ᒋ ᐅᐣᑎᓯᐧᐊᒡ ᑲᔦ ᒋᑭ ᐅᐣᑎᓇᒧᐧᐊᒡ ᐊᓄᑭᐧᐃᓇᐣ ᐃᐃᒪ ᒉᓂᔭᑫᐧᐃ ᒪᒋᑕᐧᐃᓂᐣᒃ᙮ ᑲᔦ ᒥᐢᑯ ᑲᑕ ᑎᐸᐊᒪᐧᐊᐧᐊᒃ ᐊᓂᔑᓇᐯᒃ ᑭᐢᐱᐣ ᓂᔑᐧᐊᓇᒋᒋᑲᑌᓂᐣᒃ ᓇᓇᑕᐧᐁᐣᒋᑫᐧᐃᐣ, ᐧᐊᓂᐃᑫᐧᐃᐣ ᒥᓇ ᑭᓄᒐᑫᐧᐃᐣ᙮

5. ᐅᓄ ᓂᐧᐃᐣ ᑕᔑᑫᐧᐃᓇᐣ ᑲᑕ ᐃᓇᓄᑭᑕᒪᓯᐧᐊᒃ ᒋ ᐅᓇᒋᑫᐧᐊᐣᒡ ᑲᔦ ᒋᒪᑕᓄᑲᑕᒧᐧᐊᒡ ᐅᓇᐸᒋᑫᐧᐃᓇᐣ ᑫᓄᐣᒋ ᒥᓄᓴᓂᒃ ᒥᓯᐧᐁ ᐅᐱᒪᑎᓯᐧᐃᓂᐧᐊ᙮ ᑲᓇᑕ ᒥᓇ ᐅᐣᑌᑎᓗᐅ ᐅᑲ ᐸᑭᑎᓇᓇᐧᐊ ᒉᓂᔭ ᐧᐃᒋᐃᐧᐁᐧᐃᐣ ᑲᔦ ᑲ ᐅᑭᑫᐣᑕᒪᐧᐃᓂᑦ ᐅᑕᓄᑭᐣ ᑫᐧᐃᑐᑲᑫᓂᑦ ᐅᒪ ᒫᒋᑕᒪᓯᐧᐃᓂᐣᒃ᙮

ᒥᓄᔭᐧᐃᐣ ᑲᔦ ᒥᓄᐱᒪᑎᓯᐧᐃᐣ

ᐧᐊᑲᐦᐃᑫᐧᐃᐣ

6. ᐧᐃᐣᑫ ᒪᒋᓇᐧᑲᓄᐣ ᑲᔦ ᓇᐧᐊᒋᓇᑎᓄᐣ ᐧᐊᑲᐦᐃᑲᓇᐣ ᐅᐅᒪ ᓂᐧᐃᐣ ᑕᔑᑫᐧᐃᓂᒃ᙮ ᓂᐢᐧᐁ ᐅᑭᒪᐧᐃᓇᒃ ᑲᑕ ᐧᐃᑕᓄᑭᒥᑎᐧᐊᒃ ᑫᒋᓇᒡ ᐧᑲᔭᒃ ᐧᐊᑲᐦᐃᑫᐧᐃᐣ ᒋᐸᑭᑎᓂᑲᑌᒃ ᑲᔦ ᐊᓂᔑᓇᐯᒃ ᑲᐃᔑ ᓇᑕᐧᐁᐣᑕᒧᐧᐊᒡ ᒋᔑᓇᐧᑲᑭᐣ ᐧᐊᑲᐦᐃᑲᓇᐣ᙮ ᐃᒪ ᒉᐢᑭᐧᑲᑲᒪᒃ ᑭᒋᒥᑲᓇ ᑲᐃᔑ ᐱᒪᑕᒧᒡ ᑕᒋᒪᑌᐸᓂᐣ ᐧᐃᑕᒪᑫᐧᐃᓇᐤ ᐊᐱᓄᐣᒋᓴᒃ ᑲᔦ ᑯᑕᑭᔭᒃ ᐊᐧᐃᔭᒃ ᐃᐃᒪ ᐁᓂᑕ ᐸᐸᒧᓴᐧᐊᐣᒡ ᑲᔦ ᑕᐃᓇᑌᐸᐣ ᓇᐧᐊᒡ ᐯᑲᒡ ᐅᑕᐸᓀᓴᐣᒃ ᒋᐱᒪᓀᓯᐧᐊᑦ ᐃᐃᒪ ᒥᑲᓇᒃ᙮

ᓂᐦᐱ ᒥᓇ ᑭᓯᓯᐸᓯᐧᐃᓇᐣ ᒥᓇ ᐧᐁᐱᓂᑫᐧᐃᐣ ᒥᓇ ᐃᐢᑯᑌᔭᐱᑫᐧᐃᐣ

7. ᐅᒪ ᓂᐧᐃᐣ ᑕᔑᑫᐧᐃᓂᒃ ᐊᓂᔑᓇᐯᒃ ᐅᐧᐊᑲᐦᐃᑲᓂᐧᐊᒃ ᑲᐧᐃᐣ ᐊᔭᓯᓄᐣ ᐧᐃᐧᑲᐅ ᐱᐧᐃᐣ ᒥᓇ ᑭᓯᓯᐸᓯᐧᐃᓇ ᒥᓇ ᐧᐃᓇᐳ ᒪᒋᔭᐳᒋᑫᐧᐃᐣ᙮ ᓂᐢᐧᐁ ᐅᑭᒪᐧᐃᓇᒃ ᐅᑕ ᐊᓄᑲᑕᓇᐧᐊ ᓚᒪᒃ ᒋᑭ ᐅᔑᒌᑲᑌᐧᑲᐸᐣ ᐅᓄ ᐊᐸᒋᑕᐧᐃᓇᐣ᙮ ᐁᑲ ᑲᑕᐧᑲᑭᐣ ᐅᓄ ᐊᐸᒋᒋᑲᓇᐣ ᐊᒥᐅᒪ ᐧᐁᐣᒋᓴᑭᐣ ᐊᑯᓯᐧᐃᓇᐣ ᐅᒥᓴᑕᒃ ᐧᐃᓴᑲᐱᓀᐧᐃᐣ, ᒥᑕᐧᐊᑲᒃ ᑕᓇᐱᓀᐧᐃᐣ ᑲᔦ ᒥᑯᑕᐢᐧᑲᒃ ᑕᓇᐱᓀᐧᐃᐣ᙮ ᐃᒪ ᐸᑭᓚᔭᐱᑯᐸᐧᐃᑎᑯᒃ ᑲᑕ ᐃᓇᐱᑫᒧᒋᑲᑌ ᐃᐢᑯᑌᔭᐸ ᐯᒉᒡ ᑲᐧᑲᔭᒋ ᐱᒪᐱᑫᒧᐣᒃ ᐃᒪ ᑕᔑᑫᐧᐃᓂᐣᒃ᙮

<u>ᐅᑕᒥᓄᐧᐃᑲᒥᑯᓐ ᑲᔦ ᐅᑕᒥᓄᐧᐃᓐ ᐱᒧᒋᑫᐧᐃᓐ</u>

8. ᑲᐧᐃᓐ ᑭᑭᓇᐧᐊᑲᒡ ᑕᐧᑲᓯᓄᓐ ᐅᑕᒥᓄᐧᐃᓐ ᐅᒪ ᓂᐢᐧᐁ ᑕᔑᑫᐧᐃᓂᓐᒃ. ᒣᐢᑭᐧᑲᑲᒪᒃ ᐁᑕ ᓄᑯᒡ ᑭᐅᔑᑕᓂᐧᐊᓐ ᐅᑕᒥᓄᐧᐃᑲᒥᒃ ᑲᔦ ᐅᐯᓭᐧᐊᐸᑕᓇᐧᐊ ᐱᒪᑯᐧᐁᐸᐃᑫᐧᐃᒥᑯᓂ ᐃᒪ ᐅᑲᐢᓴᑲᐃᑲᓂᒃ ᑲ ᑕᐧᑲᓂᓂᒃ. ᐅᐢᑲᑎᓴᒃ ᑲᐧᐃᓐ ᑫᑯᓂᓂ ᑫᐅᑕᒥᑲᒍᐧᐊᑦ ᒥᐱᑯ ᐁᑕ ᒥᓂᐧᑫᐧᐃᓐ ᒥᓇ ᒥᓇᒋᑫᐧᐃᓐ ᐁᓂ ᓄᒋᑐᐧᐊᑦ. ᓂᐢᐧᐁ ᐅᑭᒪᐧᐃᓇᒃ ᑲᑕ ᐊᓄᑲᑕᓇᐊ ᒋᐊᔭᓂᒃ ᐅᑕᒥᓄᐧᐃᑲᒥᑯᓐ ᑲᔦ ᐅᑕᒥᓄᐧᐃ ᐱᒧᒋᑫᐧᐃᓇᓐ ᐅᒪ ᑲᑭᓇ ᑕᔑᑫᐧᐃᓂᓐᒃ.

<u>ᒥᓂᐧᑫᐧᐃᓐ, ᒪᐢᑭᑭ ᑲᒪᒋᐊᐸᑕᒃ ᒥᓇ ᒥᓇᒋᑫᐧᐃᓐ</u>

9.1 ᑲᑭᓇ ᐅᒪ ᑕᔑᑫᐧᐃᓂᒃ ᐊᓂᒥᐦᐧᐃᐧᐁᒪᑲᓐ ᒥᓂᐧᑫᐧᐃᓐ, ᒪᐢᑭᑭ ᒪᒋᐊᐸᒋᒋᑫᐧᐃᓐ ᑲᔦ ᒥᓇᒋᑫᐧᐃᓐ. ᐃᔑᓴᓂ ᐊᓂᔑᓇᐯᒃ ᒋᐅᓇᐸᑕᒧᐧᐊᑦ ᐊᓂᓐ ᑫᐃᓇᓄᑲᑕᒧᐧᐊᒡ ᐅᐅᐧᐁ ᒪᐦᒋᓴᐧᐃᓐ.

9.2 ᐃᐃᒪ ᓭᐧᐊᓄᓐᒃ ᐧᐃᓐᑎᑯ ᐃᓇᑫᐦᐃ ᑕᐊᔭᐸᓐ ᑫᐅᓐᒋ ᐧᐃᒋᐃᒡ ᐊᐧᐃᔭ ᑲᐧᐃ ᒥᓄᓇᒃ ᐅᐱᑎᓯᐧᐃᓐ. ᐃᐃᐧᐁ ᐧᐃᓐᒋᐃᑎᐧᐃᓐ ᒋᐃᔑᒋᑲᑌᑭᐸᓐ ᑲᑕᓯᒡ ᐅᑎᐯᐤᒋᑫᐧᐃᓂᓐᒃ ᐊᐧᐃᔭ ᒋᒪᒪᐧᐃ ᐧᐃᓐᒋᐃᒡ. ᑲᐧᐃᓐ ᓂᑕ ᒥᓄᓯᓴᓄᓐ ᐊᓇᑭ ᐯᔑᑯ ᒪᒋᐧᐃᓂᓐᒡ ᐊᐧᐃᔭ ᓂᑲᑌ ᑲᐊᓐᑕ ᐧᐃᒋᐃᒡ ᐅᒥᓂᐧᑫᐧᐃᓐ ᓇᓐᑕ ᑯᑕᒃ ᑫᑯᓐ ᑲᒪᒋᑐᑕᑫᒪᑲᓂᓂᒃ ᑲᐅᓴᒥᐦᐃᑯᒡ. ᐊᐱ ᒥᓇ ᑲᐱ ᑭᐧᐁᓐᒋᓐ ᐯᔑᑲᓐ ᐁᐃᔑᓴᓐᒡ. ᐸᓂᒪ ᐱᑯ ᐯᔑᑯ ᑎᐯᓐᒋᑫᐧᐃᓐ ᑲᔦ ᑕᔑᑫᐧᐃᓐ ᐊᓐᒋᓴᒃ ᑕᑭ ᐧᑫᑭᓴᐧᐊᒃ ᐊᐧᐃᔭᒃ.

9.3 ᑲᔦ ᐃᔑ ᑭᑫᓐᒋᑲᑌ ᒥᓂᐧᑫᐧᐃᓐ ᐊᓄᑭᓇᑲᓇᒃ ᐁᑲ ᐧᑲᔭᒃ ᐁ ᑭᑭᓄᐊᒪᐧᐃᑕ ᑲᔦ ᐁᓇᓄᑌᓴᐧᐊᑦ ᓬᓂᔭᓇᓐ ᐧᑲᔭᒃ ᒋᑭ ᐱᒧᑐᐧᐊᑦ ᐅᑕᓄᑭᐧᐃᓂᐧᐊ. ᑭᒋᐃᓀᓐᑕᐧᑲᓂᓂ ᐧᑲᔭᒃ ᒋᑭᑭᓄᐊᒪᑯᓯᐧᐊᐸᓐ ᑲᔦ ᒋᑌᐱᓴᐧᐊᐸᓐ ᓬᓂᔭᐧᐃ ᐧᐃᒋᐃᐧᐁᐧᐃᓂᓂ.

9.4 ᐊᓂᓐ ᐁᓇᐱᓇᓂᐧᐁᒪᑲᒃ ᒥᓂᐧᑫᐧᐃᓐ, ᒪᐢᑭᑭ ᒪᒋᐊᐸᒋᒋᑫᐧᐃᓐ ᑲᔦ ᒥᓇᒋᑫᐧᐃᓐ ᑕ ᑭᑭᓄᐊᒪᐧᐊᑲᓄᐸᓂᒃ ᐊᐱᓄᓐᒋᓴᒃ ᑲᔦ ᐱᑯ ᑯᑕᑭᔭᒃ ᑲᑭᓇ ᐊᐧᐃᔭᒃ.

9.5 ᑲᓇᑕ ᒥᓇ ᐅᓐᑌᕆᐅ ᐅᑭᒪᐧᐃᓐ ᐅᑕ ᐸᑎᑭᓇᐧᐊᓐ ᓬᓂᔭᓇᓐ ᒋᑭ ᐊᓄᑭᐦᐃᐧᑕᐸᓐ ᐊᐧᐃᔭᒃ ᒋ ᓇᓇᑐᓇᐧᐊᐧᐊᑦ ᑲᔦ ᒋᑲᓇᐧᐁᓂᒪᐧᐊᒡ ᑲᐅᓴᒥ ᑭᐧᐊᐢᐧᑫᐱᓂᒡ ᐊᐧᐃᔭᓐ. ᐃᔑ ᑭᑫᓐᑕᐧᑲᓐ ᐅᒪ ᐃᓇᓄᑭᐧᐃᓂᒃ ᒥᔑᐧᓇ ᐊᐧᐃᔭ ᐁ ᑲᒋᑎᓇᑲᓄᓐᒡ ᐁᐧᒪᔦ ᓂᔑᐧᐊᓇᑎᓯᒡ ᓇᓐᑕ ᑲᔦ ᐁᐧᒪᔦ ᐱᒋᐊᐃᑎᑦ. ᐁᐧᑲ ᒥᓇ ᓇᐧᐊᒡ ᒥᓄᓴᓂ ᐅᓄ ᐅᑕᓄᑭ ᐊᐧᐃᔭ ᒋ ᓴᑲᑭᓂᓭᐅᑦ ᐊᐱᒡ ᐧᐃᓐ ᑕᑯᓂᐧᐁᐧᐃᓂᓂᐧᐊᓐ ᑲᒋᑎᓂᑯᑦ ᓇᓐᑕ ᒋ ᑕᑯᓇᑲᓄᒡ ᓇᓐᑕ ᒋ ᑎᐸᐃᑫᐊᑲᓄᒃ ᐁᐧᑲ ᐁᑲ ᑭ ᑎᐸᐃᑫᒃ ᒋᔭᓂ ᐃᓇᓬᐧᐊᓯᒡ ᒋᑭᐸᐅᓐᒡ.

ᐯᔑᑯ ᑎᐯᐦᒋᑫᐧᐃᓂᒃ ᑲᐧᑲᑕᑭᐃᑎᐧᐃᐣ

10.1 ᒪᐧᐊᒃ ᓂᑲᓀᐣᑕᐧᑲᐦ ᑕᑯᓂᐧᐁᐧᐃᓂᓂ ᒥᓇ ᓇᐦᑕ ᑎᑭᓇᑲᐦ ᐊᐱᓄᐦᒋᓯᑭᒪᒃ ᓇᐦᑕ ᑯᑕᒃ ᐅᓇᑕᒪᑫ ᔕᒪᒃ ᒋ ᓇᑕᒪᐧᐊᐦᒡ ᐊᐧᐃᔭᐦ ᑲ ᓄᐦᑎᓂᒥᒃ᙮ ᑫᑲᑦ ᒧᔅᒃ ᐃᐧᑫᐧᐊᒃ ᒥᓇ ᐊᐱᓄᐣᒋᓴᒃ ᐃᑭ ᐅᐅᐧᐁ ᑲᐃᔑᒪᐦᒋᓴᐧᐊᒡ᙮

10.2 ᐁᐧᑲ ᒥᓇ ᑭᒋᐃᓀᐦᑕᐧᑲᐣ ᒋᐊᔭᓂᑭᐸᐦ ᐊᒋᓇ ᑫᐃᔑ ᑲᐯᔑᐧᐊᑦ ᐃᑭᐧᐁᓂᐧᐊᒃ ᑲᑭ ᓄᑎᓇᑲᓄᐧᐊᑦ ᒣᐧᑲᒡ ᐱᒋᒥᓄᔭᐧᐊᒡ ᑲ ᓇᒣᔭᐱᓇᓇᑲᓄᐧᐊᐧᑫᐦ ᐁᐧᑲ ᒥᓇ ᒋᔭᓂ ᒥᐧᓀᓂᒧᐧᐊᒡ ᐅᒪᒥᑐᓀᐦᒋᑲᓂᐧᐊᒃ᙮

10.3 ᐁᐧᑲ ᐅᐧᐁ ᓂᐢᐧᐁ ᑫᑯᐦ ᓇᑕᐧᐁᐦᑕᐧᑲᐦ ᒋᑲᑲᓄᓇᑲᓄᒡ ᒋᑭᑭᓄᐊᒪᐧᐊᑲᓄᒡ ᐊᐧᐁ ᑲᓂᑕ ᑲᐧᑲᑕᑭᐃᐧᐁᒡ ᙮ ᐃᑐᒃ ᑫᐧᐃᐦ ᒣᐧᑲᒡ ᐁᐃᐱᑭᒡ ᑭᓂᑕ ᓄᑎᓇᑲᓄᑯᐸᐦ ᑲᐅᐦᒋ ᐃᔑᔭᑦ ᐊᐧᐁᑎ ᓇᐯ᙮ ᑫᐧᐃᓇᐧᐊ ᑕᐢᐃᑯ ᓄᑎᓇᑲᓇᒃ ᑕ ᑲᑭᓯᒪᑲᓄᐸᓂᒃ᙮.

10.4 ᐊᓂᔑᓇᐯᒃ ᑲᔦ ᑕᑯᓂᑫᐧᐃᓂᓂᐧᐊᒃ ᑲᑕ ᐧᐃᑕᓄᑭᒥᑎᐧᐊᒃ ᒋᐊᓄᑲᑕᒧᐧᐊᑦ ᐅᓄ ᑫᑯᓇ ᑲᐧᐃᒋᑲᑌᓂᑭᐦ ᑫᐃᔑ ᐧᐃᒋᐃᒃ ᑲᐧᑲᑕᑭᐊᑲᐦ ᑲᔦ ᐊᐧᐁ ᐅᑲᐧᑲᑕᑭᐃᐧᐁ᙮ ᑲᔦ ᑕ ᐊᐦᑕᐧᐁᐦᑕᐧᑲᐦ ᓇᑕᐧᐃᐃᐧᐁᑲᒥᒃ ᑫᑕᔑ ᐧᐃᒋᐃᐧᑕ ᐊᐧᐃᔭᒃ᙮ ᑲᑭᓇ ᓂᐢᐧᐁ ᐅᑭᒪᐧᐃᓇᒃ ᐅᑲ ᐊᓄᑲᑕᓇᐧᐊ ᑫᒋᓇ ᐅᓄ ᑫᑯᓇᐦ ᒋᐊᓂ ᐃᔑᐧᐁᐸᓂᓂᑭᐦ᙮

ᒪᐢᑭᑭᐧᐃᑲᒥᐦᒃ ᐃᒪ ᒣᐢᑭᐧᑲᑲᒪᒃ

11. ᓇᐱᒡ ᒪᒪᔑᐢ ᑲᐃᔑᓇᐧᑲᒃ ᒪᐢᑭᑭᐧᐃᑲᒥᐦᒃ ᑲᔦ ᑕᐢᑯ ᐊᑯᓯᐧᐃ ᐸᒥᐃᐧᐁᐧᐃᐦ ᐃᒪ ᒣᐢᑭᐧᑲᑲᒪᒃ᙮ ᐊᐦᑕᐧᐁᐦᑕᐧᑲᐦ ᐧᐁᐧᐃᐸᒡ ᒋᐅᓀᐦᑕᒪᓯᓇᓄᒃ ᐊᓂᐦ ᑫᐃᔑᓇᐧᑲᒃ ᐊᑯᓯᐧᐃ ᐸᒥᐃᐧᐁᐧᐃᐦ ᐃᒪ ᑕᔑᑫᐧᐃᓂᐦᒃ᙮

ᐊᓂᔑᓇᐯ ᐱᒪᑎᓯᐧᐃᐦ ᒥᓇ ᐃᔑᑭᔐᐧᐃᐦ

12. ᐃᔑᓇᐧᑲᐦ ᑭᒋᐅᑭᒪᓇᒃ ᐁᑲ ᒋᐃᐢᑕᑌᐦᑕᒪᐧᐃᒡ, ᒋ ᐧᐃᑐᑲᑌᓂᐦᒃ ᐱᑯ ᐊᓂᔑᓇᐯ ᑲᐅᐦᒋ ᐱᒪᒋᐅᒡ ᓇᓇᑕᐧᐁᐦᒋᑫᐧᐃᐦ, ᐧᐊᓂᐃᑫᐧᐃᐦ ᑲᔦ ᐸᑭᑕᐧᐁᐧᐃᐦ᙮

13. ᑲᑭᓇ ᑲᓇᑕ ᒥᓇ ᐅᐦᑌᑎᐅ ᐅᓇᑯᓂᑫᐧᐃᓇᐦ ᑲᔦ ᐅᓇᓱᐧᐁᐧᐃᓀᓴᐦ ᑕ ᐧᐊᐧᐊᐸᒋᑲᑌᐧᐊᐦ ᒋ ᑭᑫᐦᒋᑲᑌᒃ ᐊᓂᐦ ᐃᓂᐧᐁᓂᐧᐊᐦ ᑲᐧᐊᓇᒋᑫᒪᑲᑭᐦ ᐊᓂᔑᓇᐯ ᐅᑕᒋᐅᐧᐃᓂᐦᒃ ᑲᔦ ᒋ ᐧᐁᐧᐁᓇᒋᑲᑌᑭᐦ ᐁᑲ ᓇᐱᒡ ᒋ ᒪᒋᐱᒋᑫᒪᑲᑭᐦ ᐊᓂᔑᓇᐯ ᐱᒪᑎᓯᐧᐃᓂᒃ᙮

14. ᐃᐃᒪ ᐧᓴᑭᓐ ᓀᔑᓐ ᑲ ᐯᓭᓇᐧᑲᑭᓐ ᑲᐃᔑ ᑭᔑᐸᑌᑭᓐ ᑎᐸᐦᐃᑲᐣ ᓭᓐᑲᓯ ᒥᓇ ᓂᐢᐧᐁ ᐊᓂᔑᓇᐯᒃ ᐅᑕᓂᒥᐦᐃᑯᓇᐧᐊ ᑲ ᓇᐱᒡ ᑲᐊᐃᑕᑌᓂᑭᓐ ᐊᐧᐃᔭᔑᐢ ᒥᓇ ᑭᓄᔐᐤ ᐅᓇᑯᓂᑫᐧᐃᓇᓐ᙮ ᑲᐧᐃᐣ ᐧᐊᓇᑕᒃ ᑭ ᓇᓇᑕᐧᐁᓐᒋᑫᓯᐧᐊᒃ ᑲᔦ ᑭ ᑭᓄᔐᑫᓯᐧᐊᒃ᙮ ᔐᒪᒃ ᐅᑕ ᐊᓄᑲᑕᓇᐧᐊ ᐃᑭᐧᐁᓂᐧᐊᒃ ᐅᐅᒪ ᑲᐃᔑ ᐅᐸᐸᒥᓯᐧᐃᓂᐧᐊᑦ᙮ ᐊᓂᔑᓇᐯᒃ ᒥᓇ ᐅᓐᑌᑎᐅ ᐅᑭᑭᓇᐧᐊᒋᐢᑲᒪᑫᒃ ᑕ ᐧᐃᑕᐱᒥᑎᐸᓂᒃ ᒋ ᐅᓇᐸᑕᒧᐧᐊᒡ ᐅᓄ ᑫᑯᓇᓐ ᐧᐁᑎ ᐊᓂ ᓂᑲᓐ᙮

15. ᓇᑕᐧᐁᓐᑕᐧᑲᓐ ᒥᐢᑕᐦᐃ ᒪᒥᐢᑯᒡ ᒋ ᑭᑭᓄᐊᒪᑎᐧᐊᐸᓐ ᐊᓂᔑᓇᐯᒃ ᒥᓇ ᓴᑲᓇᓴᒃ ᐃᓇᑎᓯᐧᐃᓇᓐ ᒥᓇ ᐃᔑᑭᔐᐧᐃᓇᓐ᙮ ᐃᑭ ᐅᑕ ᑎᐸᑯᓂᑫᐧᐃ ᐱᒧᒋᑫᐧᐃᓂᒃ ᑲᐃᔑ ᐸᐸᒥᓯᐧᐊᑦ᙮ ᐧᐃᐸᒡ ᐅᑕ ᐊᓄᑲᑕᓇᐧᐊ ᐅᐅᐧᐁ ᑭᑭᓄᐊᒪᑎᐧᐃᓂᓂ ᑲ ᐱᒧᑐᐧᐊᒡ ᑭᑭᓄᐊᒪᑎᐧᐃᑲᒥᑯᓐ ᑲᔦ ᔕᐳᑭᑭᓄᐊᒪᑎᐧᐃᑲᒥᑯᐣ᙮

16. ᑎᐸᐦᐃᑲᓐ ᓂᐢᐧᐁ ᒥᓇ ᓭᒃᑲᓯ ᑲ ᓴᑲᓇᔑᐧᐃᐱᐃᑲᑌᑭᐣ ᐁᑕ᙮ ᑕ ᓇᓇᑕᐧᐃᑭᑫᓐᒋᑲᑌᐸᓐ ᑭᐢᐱᓐ ᑫᑭ ᐃᔑᓇᐧᑲᓄᐧᑫᓐ ᒋ ᐊᓂᔑᓇᐯᐧᐃᐱᐃᑲᑌᑭᓐ ᐅᒋᐧᐯᒃ ᒥᓇ ᐅᒪᐢᑭᑯᒃ ᑫᐃᔑ ᓂᓯᑐᑕᒧᐧᐊᑦ᙮

17. ᑭᐢᐱᓐ ᑲᓇᑕ ᒥᓇ ᐅᓐᑌᑎᐅ ᐅᓇᑯᓂᑫᐧᐃᓇᓐ ᐧᐃ ᑲᒋᓂᓭᐃᑲᑌᑭᓐ ᐃᐃᒪ ᓂᐧᐃᓐ ᑕᔑᑫᐧᐃᓂᒃ ᑲᑕ ᐊᓂᔑᓇᐯᐱᐃᑲᑌᐸᓂᓐ ᑲᔦ ᐧᑲᔭᒃ ᑲᑕ ᐧᐊᐧᐃᑕᒪᐧᐊᑲᓄᐸᓂᒃ ᐊᓂᔑᓇᐯᒃ ᐊᓂᓐ ᐁᑭᑐᒪᑲᓂᓐᑭᓐ ᐃᓂᐧᐁᓂᐧᐊᓐ ᐅᓇᑯᓂᑫᐧᐃᓇᓐ᙮

18. ᑲᑭ ᑭᑭᓄᐊᒪᑯᓯᐧᐊᑦ ᐅᑎᐧᓀᑕᒪᑫᒃ ᑕᐊᔭᐸᓂᒃ ᑎᐸᑯᓂᑫᐧᐃᓂᓐᒃ ᑫᐊᓄᑭᐧᐊᑦ ᒋᐧᐃᒋᐊᐧᐊᑦ ᑲᑎᐸᑯᓂᒥᓐᒡ ᑲᔦ ᑯᑕᑭᔭᓐ ᐊᐧᐃᔭ ᑲᐱᓐᑕᐧᐃ ᑲᓇᐧᐊᐱᓂᑦ᙮ ᑲᔦ ᒋᐃᐧᓀᑕᒪᐧᐊᐧᐊᒡ ᓴᑲᓇᐢ ᑕᑯᓂᐧᐁᐧᐃᓂᓂᐧᐊᓐ ᑲᔦ ᐅᑕᔭᒥᑕᒪᑫᐣ ᑲᔦ ᑎᐸᑯᓂᐧᐁᐧᐃᓂᓂᐧᐊᓐ᙮

19. ᐅᑭᒪᐧᐃᓐ ᒪᓯᓇᐃᑲᓇᓐ ᑲ ᓴᑲᓇᔑᒧᐱᐃᑲᑌᑭᐣ ᑲᔦ ᑲ ᐸᐧᑲᔑᒧᐱᐃᑲᑌᑭᓐ ᑲᑕ ᐊᓂᔑᓇᐯᐧᐃᐱᐃᑲᑌᐸᓂᓐ ᑭᐧᐁᓐᑎᓄᒃ ᐅᓐᑌᑎᐅ ᐊᓂᔑᓇᐯᒃ ᒋ ᓂᓯᑐᑕᒧᐧᐊᒡ᙮

20. ᐊᓂᔑᓇᐯ ᐅᑎᓇᑎᓯᐧᐃᓇᓐ ᑲᐃᔑ ᒪᓇᒋᑐᑕᐧᐊᒡ ᐧᐃᒋᐊᓂᔑᓇᐯᒪᓐ ᓂᑕ ᐧᐊᓂ ᓂᓯᑐᒋᑲᑌᓂ ᔕᑲᓇᔑᓇᓐᒃ᙮ ᑕᐱᐢᑯ ᐅᐧᐁ ᑲᐃᒋᑲᑌᒃ ᐊᓂᔑᓇᐯ ᐁᑲ ᑲᑲᓇᐧᐊᐸᒥᐧᐁᑦ ᒥᐢᑭᓯᑯᑦ ᒣᐧᑲᒡ ᑲᐊᔭᒥᐊᑲᓄᒡ ᐁᐧᑲ ᒥᓇ ᑲ ᒪᓇᓯᒪᑦ ᐁᐧᐊᐸᒥᑯᒃ ᐧᐃᒋᐊᓂᔑᓇᐯᓐ᙮ ᑲ ᑎᐸᑯᓂᑲᓂᐧᐊᓂᓂᒃ ᐅᒋᑕ ᐧᐃ ᒪᓀᓐᒋᑫ ᓇᓐᑕ ᑲᔦ ᑲᐧᐃᓐ ᐊᓐᑕᐧᐁᓐᑕᓯᓐ ᒋ ᑎᐸᑯᓂᒥᒡ ᐅᒪᒪᓂᓐ ᐃᓀᓐᒋᑲᓴ ᐊᓂᔑᓇᐯ᙮

21. ᑲᐊᓂᒥᓇᐧᑲᒃ ᐃᐧᓀᑕᒪᑫᐧᐃᓐ ᐧᑲᔭᒃ ᒋᑭ ᑐᒋᑲᑌᒃ ᓇᐧᐊᒡ ᑕ ᐧᐁᐣᒋᓴᐸᓐ ᐊᐸᑕᑭᐸᓐ ᓄᑯᒡ ᑲᑭᔑᑲᒃ ᑲᔭᐢ ᑲᑭᐱ ᐃᔑᒋᑫᒡ ᐊᓂᔑᓇᐯ ᑎᐸᑯᓂᑫᐧᐃᓐ ᐁᐱᒧᑕᒪᓯᒡ᙮ ᐊᓂᔑᓇᐯ ᐃᔑᑭᔐᐧᐃᓐ ᐱᑯ ᐃᒪ ᑕᔑᑫᐧᐃᓂᓐᒃ ᒋᐊᐸᑕᑭᐸᓐ᙮

ᑭᑭᓄᐊᒪᑎᐧᐃᐣ

22. ᐊᓂᔑᓇᐯᒃ ᑲᑕ ᐃᓇᓄᑭᐧᐊᒃ ᒥᑐᓂ ᐧᑲᔭᒃ ᒋ ᑭᑭᓄᐊᒪᑯᓯᓂᑦ ᐅᑕᐱᓄᓐᒋᓯᒥᐧᐊᐣ᙮ ᓇᑕᐧᐁᐣᑕᐧᑲᐣ ᓄᑯᒻ ᑲᔦ ᐧᐁᑎ ᓂᑲᐣ ᐊᐧᐃᔭᒃ ᒋ ᑲᐢᑭᑐᐧᐊᒡ ᓂᔑᐣ ᐃᔑᑭᒍᐧᐃᓇᐣ ᐊᓂᔑᓇᐯᒧᐧᐃᐣ ᒥᓇ ᓴᑲᓇᔑᒧᐧᐃᐣ᙮ ᐁᐧᑲ ᒥᓇ ᐃᔑᓴ ᐊᓂᔑᓇᐯ ᒋᐊᔭᐸᐣ ᑭᒋᑭᑭᓄᐊᒪᑯᐧᐃᓯᐧᐃᓂᒃ ᐅᐣᒋ ᓇᐦᐃᐧᐃᐧᓇᐣ ᑫᐧᐃᐣ ᐱᑯ ᐊᐣᑎ ᑲᔦ ᓴᑲᓇᔑᓇᒃ ᒋᑭ ᐊᓄᑭᑦ ᐁᐧᑲ ᒥᓇ ᑕᓂᓯᓴ ᐊᓂᔑᓇᐯᒃ ᐱᑯ ᒋ ᐱᒧᑕᒪᓯᐧᐊᑦ ᑲᑭᓇ ᑭᒋᐃᓇᓄᑭᐧᐃᓇᐣ᙮

23. ᐅᓂᑭᐃᑯᒪᒃ ᑕ ᑲᓇᐧᐊᐸᑕᒪᓯᐧᐊᒃ ᑫᒋᓇ ᐧᑲᔭᒃ ᒋ ᑭᑭᓄᐊᒪᑯᓯᓂᑦ ᐅᓂᒐᓂᔑᔑᐧᐊᐣ᙮ ᒧᓭᒃ ᑕᓯ ᑭᔑᑲ ᒋᐃᓴᓂᐣᒃ ᑭᑭᓄᐊᒪᑫᐧᐃᑲᒥᑯ᙮ ᑲᔦ ᒋ ᑲᑲᐣᒡᓯᒪᐧᐊᒡ ᒋᐊᓂ ᑭᔑᑐᓂᑦ ᑲᐃᐟᐸᓂᑭᐣ ᑭᑭᓄᐊᒪᑎᐧᐃᓇᐣ᙮ ᐅᓂᑭᐃᑯᒪᒃ ᑲᔦ ᐅᑕ ᓇᓇᑕᐧᐃᑭᑫᐣᑕᓇᐧᐊ ᑫᑯᓀᐣ ᑲ ᑭᑭᓄᐊᒪᐧᐃᒥᑦ ᓂᒐᓂᔑᔑᐧᐊᐣ ᑲᔦ ᑲᑕ ᐧᐃᒋᐃᐧᐁᐧᐊᒃ ᐅᓇᐸᒋᑲᑌᓂᒃ ᑫᑯᓀᐣ ᑫ ᑭᑭᓄᐊᒪᑯᓯᓂᑦ ᐊᐱᓄᓐᒋᓴ᙮ ᑫᒋᓇᒡ ᐊᓂᔑᓇᐯ ᐱᒪᑎᓯᐧᐃᐣ ᒥᓇ ᐃᔑᑭᒍᐧᐃᓇᓐ ᑲᔦ ᒋ ᑭᑭᓄᐊᒪᑎᓇᓄᒃ᙮

ᒥᓄᐧᐃᒋᐱᒪᑎᓯᒥᑎᐧᐃᐣ ᐊᓂᔑᓇᐯᓇᒃ ᒥᓇ ᓴᑲᓇᔑᓇᒃ

24. ᑲᑕ ᐅᓇᑌᐸᐣ ᐊᐱᑕᒪᑫᐧᐃᐣ ᑫᐅᐣᒋ ᐊᓄᑲᑌᒃ ᒥᓄᐧᐃᒋᐱᒪᑎᓯᒥᑎᐧᐃᐣ ᐃᐃᒪ ᒣᐢᑭᐧᑲᑲᒪᒃ ᒥᓇ ᐅᑲᓯᓴᑲᐃᑲᓂᒃ᙮

25. ᐊᓂᔑᓇᐯᒃ ᐁᑕ ᑲᐯᔑᑯ ᑕᔑᓀ ᑕᐧᐊᒡ ᑭᐧᐁᐣᑎᓄᐣᒃ ᐅᐣᑌᑎᐅ ᐃᔑᓇᐧᑲᓂᓂ ᒋ ᑭᑭᓇᐧᐊᒋᐟᑲᒪᐧᐃᐧᑕᐸᐣ ᑲᐃᔑ ᐸᐱᑭᐟᐊᑌᓂᑭᐣ ᑲᓇᑕ ᒥᓇ ᐅᐣᑌᑎᐅ ᐅᑭᒪᐧᐃᓇᐣ᙮ ᑫᐧᐃᓇᐧᐊ ᒋᑭ ᑲᓄᑕᒧᐧᐊᐸᐣ ᑫᑯᓇ ᑭᒋᐅᑭᒪᐧᐃᐣ ᐊᓄᑭᐧᐃᓂᒃ ᑲᔦ ᐊᓂᔑᓇᐯ ᑎᐯᓂᒥᑎᓯᐧᐃᓂᒃ᙮

26. ᐅᓄᐧᐁᓂᐧᐊᐣ ᐅᓇᓱᒧᓇᐣ ᑲᐧᐃᐣ ᑕᐃᔑ ᑲᓇᐧᐊᐸᑌᓯᓄᐧᐊᐣ ᒋᐧᐃ ᐧᐊᓇᒋᑫᒪᑲᑭᐣ ᑲᔦ ᐧᐃᐣ ᒋᐅᑕᒥᐃᐧᐁᒪᑲᑭᐣ ᑲᐃᔑ ᐊᓄᑲᑌᒃ ᐊᓂᔑᓇᐯ ᑎᐯᓂᒥᑎᓯᐧᐃᐣ ᒥᓯᐧᐁ ᑲᓇᑕ ᑲᔦ ᐅᒪ ᐯᓱᒡ᙮

ᒪᒪᓂᐧᐃ ᑎᐸᑯᓂᑫᐧᐃᐣ ᑫᐃᔑ ᐱᒧᐣᒋᑲᑌᒃ

27. ᑕ ᐃᔑ ᑲᐧᑫ ᑲᒋᑎᓂᑲᓂᐧᐊᐣ ᒋ ᔑᑭᒥᐧᑕ ᑲᔦ ᒋ ᓱᓂᔭᐤ ᐧᐃᑐᑲᐧᐃᐧᑕ ᐊᓂᔑᓇᐯᒃ ᑲ ᐊᑲᐧᐊᑕᒧᐧᐊᑦ ᒋ ᐅᓇᑐᐧᐊᐸᐣ ᑎᐸᑯᓂᑫᐤ ᐱᒧᐣᑕᒪᓯᐧᐃᓂᓂ ᑫ ᓇᐦᐃᓴᓂᒃ ᐱᑯ ᐅᑕᔑᑫᐧᐃᓂᐧᐊᒃ᙮ ᐊᑎᑲ ᒣᐟᑭᐧᑲᑲᒪᒃ ᐅᐣᑭᐧᐃᑕᓇᐧᐊ ᓂᔭᓇᓄ ᐊᐦᑭ ᒥᓂᑯᒃ

ᐅᓇᐸᐣᒋᑫᐧᐃᓂᓃ: ᓂᐢᑕᒼ ᒪᒋᒋᑫᐧᐃᐣ - ᓂᓱ ᐊᐦᑭ, ᑕᔑᑫᐧᐃᓂᒃ ᐧᐊᐧᐁᓂᐧᐃᐣ ᑲᔦ
ᑭᑭᓄᐊᒪᑫᐧᐃᐣ - ᐯᔑᑯ ᐊᐦᑭ, ᒪᐣᒋᐱᒧᒋᑫᐧᐃᐣ - ᐯᔑᑯ ᐊᐦᑭ, ᓇᓇᑲᒋᒋᑫᐧᐃᐣ ᑭᐢᐱᐣ
ᑫᒥᓄᓭᐧᑫᐣ - ᐯᔑᑯ ᐊᐦᑭ᙮

<u>ᑕᑯᓂᐧᐁᐧᐃᐣ ᐊᓄᑭᐧᐃᐣ</u>

28. ᐊᓂᔑᓇᐯᒃ ᒥᓇ ᐅᐣᑌᓀᐅ ᐅᑭᒪᒃ ᑕ ᑕᔑᑕᒪᑎᐧᐊᒃ ᒋᐅᓇᑐᐧᐊᒡ ᑕᑯᓂᐧᐁᐤ ᐊᓄᑭᐧᐃᓂᓂ ᐅᐧᐁᑎ ᑭᐧᐁᐣᑎᓄᐣᒃ ᐅᐣᑌᓀᐅ᙮ ᐊᓂᔑᓇᐯᒃ ᑫᐧᐃᓇᐧᐊ ᐅᑲ ᐊᐱᑕᓇᐧᐊ ᑲᐃᔑ ᐅᑭᒪᐧᐃᑦᑕᐧᐃᒥᒡ ᑕᑯᓂᐧᐁᐧᐃᓂᓂᐧᐊ᙮ ᐊᓂᔑᓇᐯ ᑕᑯᓂᐧᐁᐧᐃᓂᓂᐧᐊᒃ ᐅᑲ ᐱᒧᑕᓇᐧᐊ ᑲᓇᑕ, ᐅᐣᑌᓀᐅ ᑲᔦ ᐊᓂᔑᓇᐯ ᐅᓇᑯᓂᑫᐧᐃᓇᐣ ᒥᓂᑯᒃ ᑫᓂ ᑭᔑᐅᓇᑌᓂᒃ ᐊᓂᔑᓇᐯ ᑎᐯᓂᒥᑎᓯᐧᐃᐣ᙮

29. ᓴᐧᐊᓄᐣᒃ ᐧᐃᐣᑎᑯ ᐃᓇᑫᐦᐃ ᑕᑭ ᐯᔑᑯ ᐱᑭᐢᐊᑌᐸᐣ ᑕᑯᓂᐧᐁᐤ ᐊᓄᑭᐧᐃᓂᒃ᙮ ᑫᐊᓄᑭᒡ ᑕᑯᓂᐧᐁᐧᐃᓂᓂ ᐁ ᓇᓇᑕᐧᐁᓂᒥᒡ ᐊᓂᔑᓇᐯ ᑕᑯᓂᐧᐁᐧᐃᓂᓂᐧᐊᒡ ᐧᑲᔦᒡ ᑲᐊᓄᑭᐧᐊᒃ ᐃᐡᑯᓂᑲᓂᒃ ᒥᓇ ᐅᐣᑌᓀᐅ ᑕᑯᓂᐧᐁᐤ ᐊᓄᑭᐧᐃᓂᒃ ᑕᑭ ᐅᑎᓇᑲᓄ ᑫᐊᓄᑭᒡ᙮

30. ᐊᓂᔑᓇᐯᒃ ᒥᓇ ᐅᐣᑌᓀᐅ ᑕᑯᓂᐧᐁᐧᐃᓂᓂᐧᐊᒃ ᐯᔑᑯᐃᓀᐣᑕᒧᐧᐃᓂᒃ ᐅᑲ ᐅᐣᒋ ᐅᓇᑐᓇᐧᐊ ᐅᐧᐁᓂ ᐊᓂᔑᓇᐯ ᑕᑯᓂᐧᐁᐤ ᐊᓄᑭᐧᐃᓂᓂ᙮ ᑲᔦ ᐧᑲᔦᒃ ᒋ ᑲᐧᑫ ᒥᓄᐧᐃᒋᐃᐧᑕ ᐅᐣᑌᓀᐅ ᑕᑯᓂᐧᐁᐧᐃᓂᓂᐧᐊᒃ ᒣᐧᑲᒡ ᐱᒥ ᐊᑕᒋᑲᓂᐧᐊᒡ ᑲᔦ ᐃᐢᐧᑲ ᐊᐸᒋᑲᓂᐧᐊᒡ᙮

31. ᒣᐧᑲᒡ ᐱᒥ ᐊᑕᒋᑲᓂᐧᐊᒃ ᑲᑭᓇ ᑕᑯᓂᐧᐁᐧᐃᓂᓂᐧᐊᒃ ᑭᐧᐁᐣᑎᓄᐣᒃ ᐊᐦᑭᐤ ᑭᑭᓇᐧᐊᐣᒋᒋᑫᐧᐃᓂᒃ 50 ᑲᐊᐣᑕᐧᐃ ᐊᓄᑭᐧᐊᑦ ᐱᓇᒪ ᑕ ᑭᑭᓄᐊᒪᐧᐊᐧᐊᒃ ᐊᓂᔑᓇᐯ ᐱᒪᑎᓯᐧᐃᐣ ᑲᔦ ᐃᔑ ᑭᒉᐧᐃᐣ᙮

32. ᐊᐱ ᑭᐅᓇᑌᒃ ᐊᓂᔑᓇᐯᒃ ᒋᐅᑭᒪᐧᐃᐣᑕᒪᓯᐧᐊᑦ ᑕᑯᓂᐧᐁᐧᐃᓂᓂ ᐱᒧᒋᑫᐧᐃᓂᓂ ᐅᓄᐧᐁᓂᐊᐟ ᑫᑯᓇ ᐅᑲ ᐊᓄᑲᑕᓇᐧᐊ:

32.1 ᐃᒪ ᓂᐧᐃᐣ ᑕᔑᑫᐧᐃᓂᒃ ᑫᒋᓇ ᒋ ᑌᐱᓭᑭᐣ ᑕᑯᓂᐧᐁᐤ ᐊᓄᑭᐧᐃᓇᐣ᙮

32.2 ᒣᐢᑭᐧᑲᑲᒪᒃ ᐧᑲᔦᒃ ᒋᓇᓇᑲᑕᐧᐊᐸᑌᒃ ᐊᓂᐣ ᑫᑭ ᐃᔑᓇᐧᑲᑭᐸᐣ ᑕᑯᓂᐧᐁᐤ ᐊᓄᑭᐧᐃᐣ ᑲᔦ ᒋ ᑕᐧᑲᒃ ᐧᑲᔦᒃ ᑫᐃᔑᓇᐧᑲᒃ ᑕᑯᓂᐧᐁᐤ ᐊᓄᑭᐧᐃᑲᒥᑯᐣ᙮

32.3 ᐊᓇᐧᐃᐣ ᐁᓇᐧᐊᒋᓄᓇᓂᐧᐊᒃ ᐃᒪ ᐧᓭᑭ ᑲᔦ ᓭᐸᐣᑦᓓᒃ ᑕᑯᓂᐧᐁᐧᐃᓂᓂ ᑕ ᐊᐣᑕᐤ ᐊᓄᑭᐸᐣ᙮

32.4 ᒋ ᐅᔑᒋᑲᑌᐤ ᐊᓄᑭᐏ ᐅᓇᓯᐍᐏᐣ ᑫ ᑐᑕᐏᐣᐠ ᐊᐏᔭ ᑲ ᐅᓴᒥᑭᐢᑫᐱᐠ᙮ ᒥᐢᑯᐨ
ᐁᑲ ᒋ ᑕᑯᓂᐣᑎᐸᐣ ᒥᓇ ᓇᐣᑕ ᒋ ᑎᐸᐃᑫᐃᑎᐸᐣ ᓇᐣᑕ ᑲᔦ ᑲᐏ ᑭᐸᐚᑲᓄᐨ᙮

32.5 ᒋ ᐅᔑᑕᒪᐏᑕ ᐊᓂᔑᓇᐯ ᑕᑯᓂᐍᐏᓂᓂᐚᐤ ᑫᐃᔑᓈᑲᓂᓂᐤ ᐅᑭᑭᐢᑭᑲᓂᐚ ᑲᔦ
ᐅᑭᑭᓇᐚᐣᒋᐃᑯᐏᓂᐚ ᒋ ᓂᓯᑖᐃᓇᑯᓯᐚᐨ ᑫᑯ ᐊᓂᔑᓇᐯ ᑕᔑᑫᐏᓂᐤ ᑲᑕᓇᓄᑮᐚᐨ᙮
ᐍᑲ ᑲᔦ ᒋ ᐅᑑᐣᒋᑲᑌᓂᐤ ᑭᐢᐱᐣ ᒧᐡᐤ ᑫ ᐸᔭᑌᓈᑲᓂᓂᑫᐣ ᐁᐱᒧᑑᐚᐨ ᐸᐢᑭᓯᑲᓂᓂ᙮

32.6 ᒋ ᐅᓇᒋᑲᑌᐤ ᐃᓇᐸᑎᓯᐏᐣ ᑫᐅᐣᒋ ᓇᓇᑲᒋᒋᑲᑌᐤ ᐊᐱ ᐊᐏᔭ ᑲᐏᐣ ᐘᔭᐤ
ᓂᐣᑐᑕᐤ ᑕᑯᓂᐍᐏᓂᓂ ᑲᐃᓇᒋᒧᐨ᙮

32.7 ᒋ ᐅᓇᒋᑲᑌᐤ ᐅᓇᓯᐍᐏᐣ ᑫᒪᓂ ᐱᒥᓂᓴᐃᑲᑌᐤ ᐊᐱ ᑲᐃᔑᓴᐤ
ᑕᑯᓂᐍᐏᓂᓂᐚᐤ ᒋ ᑎᐸᒋᒧᑕᑫᐚᐨ ᑕᔑᑫᐏᓂᐤ ᐊᐏᔭ ᑲ ᓂᔑᐚᓇᑎᓯᐨ ᓇᐣᑕ ᑲᔦ ᑲ
ᑭᒋᐊᐃᑎᐨ᙮

ᐏᔭᓯᑭᒪᐤ

33. ᐏᔭᓯᑭᒪᐤ ᐊᓄᑭᐏᐣ ᑭᐍᐣᑎᓄᐤ ᐅᐣᑌᑎᕒᐅ ᐊᓂᔑᓇᐯ ᑕᑯᓂᐍᐏᓂᓂᐚᐤ ᑲᑕ
ᐱᒧᑕᒪᑫᐚᐤ ᐘᔭᐤ ᐱᓇᒪ ᑭ ᑭᑭᓄᐊᒪᐏᑕ᙮ ᓇᐣᑕ ᑲᔦ ᐊᓂᔑᓇᐯᐤ ᐏ ᐊᔑᑕᐱᐚᐤ
ᑲᐅᐣᒋ ᐅᑭᒪᐏᐤᑕᐏᒥᐨ ᐏᔭᓯᑭᒪᐣ ᑲᔦ ᐱᑯ ᐊᓂᔑᓇᐯᐤ ᒋ ᐏᔭᓯᑭᒪᐏᐚᐨ᙮

ᑎᐸᑯᓂᑫᐏᑲᒥᑯᐣ

34.1 ᐊᐣᑎ ᐱᑯ ᑲᑭ ᑕᔑ ᒪᒪᓂᓇᓄᐤ ᑕ ᑕᔑ ᑎᐸᑯᓂᑲᓂᐚᐣ᙮ ᒣᐢᑭᑿᑲᒪᐤ ᑕ
ᐅᔑᒋᑲᑌᐸᐣ ᑎᐸᑯᓂᑫᐏᑲᒥᐤ ᑭᐢᐱᐣ ᐃᔑ ᓇᐦᐁᑕᒧᐚᐨ ᐃᐃᒪ ᐊᓂᔑᓇᐯᐤ᙮

34.2 ᐸᐸᓭᐨ ᐊᐣᑕᐌᐣᑕᑳᐣ ᒋ ᐊᓄᑲᑌᐤ ᑲ ᒪᒋᐏᓂᐣᑖ ᐅᐢᑲᑎᓴᐤ ᑲᔦ ᑭᒋᔭᐊᐤ ᑲ
ᐊᐣᑕᐤ ᑭᐸᐅᑖ ᐍᑲᐱ ᑲ ᓴᑲᐊᒧᐚᐨ ᑲ ᑵᓇᐅᐣᒋ ᑭᐍᐚᐨ᙮

34.3 ᐅᑎᐚᑕᒪᑫᐤ ᒋ ᑭᑭᓄᐊᒪᐏᑕ ᒉᑲᐨ ᑲ ᑎᐸᑯᓂᑲᓂᐚᓂᓂᐤ ᑫ ᐃᐚᑕᒪᐚᐚᐨ ᑲ
ᑎᐸᑯᓂᒥᐣᐨ ᑲᔦ ᐱᑯ ᑲᑭᓇ ᐊᐏᔭᐣ ᐃᒪ ᑲᑲᓈᐱᓂᐨ ᑎᐸᑯᓂᑫᐏᑲᒥᑯᐤ᙮

34.4 ᐱᓇᒪ ᐊᓂᔑᓇᐯᐤ ᒋ ᑿᑫᒥᑕ ᐊᐱ ᑎᐸᑯᓂᑫᐏᑭᒪ ᑲᐏ ᐅᓂᓇᑲᓄᐨ ᑭᐍᐣᑎᓄᐤ
ᐅᐣᑌᑎᕒᐅ ᑫ ᐊᐣᑕᐤ ᐊᓄᑭᐨ᙮

34.5 ᐊᓂᔑᓇᐯᒃ ᑕ ᐅᓂᓇᑲᓄᐸᓂᒃ ᒋ ᐸᐸ ᐧᐃᒋᐧᐊᐧᐊᑦ ᑎᐸᑯᓂᑫᐧᐃᑭᒪᐣ ᒋ ᑭᑭᓄᐊᒪᑯᐧᐊᑦ ᑎᐸᑯᓂᑫᐧᐃ ᐱᒧᓐᒋᑫᐧᐃᓐ᙮ ᑲ ᐊᑲᒐᓐᑕᐧᑲᓂᓂᒃ ᑎᐸᑯᓂᑫᐧᐃᑭᒪᐤ ᐊᓄᑭᐧᐃᓐ ᒋᑭ ᐊᓂ ᐃᓇᓄᑭᐧᐊᒡ᙮

34.6 ᐧᑲᔭᒃ ᑭᐃᐦᐧᑲ ᑭᑭᓄᐊᒪᑯᔪᐧᐊᑦ ᓂᔑᐣ ᑲ ᐊᑲᒐᓐᑕᑯᔪᐧᐊᑦ ᑎᐸᑯᓂᑫᐧᐃᑭᒪᒃ ᐅᑕᑭ ᐱᒧᐣᑐᓇᐧᐊ ᐅᓐᑌᑎᐅ ᑎᐸᑯᓂᑫᐧᐃᑭᒪᓐ ᐅᑕᓄᑭᐧᐃᓂᓂᓐ ᐃᒪ ᐃᐦᑯᓂᑲᓂᒃ ᒥᓂᑯᒃ ᐊᓂᔑᓇᐯ ᑎᐸᑯᓂᑫᐧᐃᑭᒪ ᑫᑭ ᐊᓂ ᐅᓇᓐᑭᒋᑲᔪᑦ᙮

34.7 ᑕᔪ ᑕᔑᑫᐧᐃᓂᒃ ᐅᑕᐱᑕᒪᑫᒃ ᑕ ᐊᔭᐧᐊᒃ ᑫᒪᓂ ᐧᐃᑕᒪᐧᐊᐧᐊᒡ ᑎᐸᑯᓂᑫᐧᐃᑭᒪᓐ ᐊᓂᓐ ᑫᑭ ᐃᓇᓯᐧᐊᓇᓂᐸᓐ ᐊᐧᐃᔭ ᑲᑭ ᒥᑲᐧᐃᒥᓐᒡ ᑌᐧᐯ ᐁᑭ ᒪᒪᓂᓂᑦ᙮

34.8 ᑭᒋᒪᒪᓂᐧᐃᓐ ᑲᔦ ᐯᔑᑯ ᑎᐯᓐᒋᑫᐧᐃᓇᓐ ᐅᓐᒋ ᐁᐧᑲ ᒥᓇ ᐅᐢᑲᑎᓴᒃ ᒥᓇ ᐅᓐᑌᑎᐅ ᐅᓇᑯᓂᑫᐧᐃᓐ ᑲ ᐱᑯᓂᑲᑌᒃ ᐅᓐᒋ ᑎᐸᑯᓂᑫᐧᐃᓇᓐ ᑲᑭᓇ ᐃᔑᓴ ᐃᒪ ᐱᔑᐧᐃᓴᑲᐃᑲᓂᒃ ᒥᓇ ᓴᐸᓐᑦ ᒍᒃ ᒋᑕᔑ ᑎᐸᑯᓂᑲᓂᐧᐊᑭᐸᓐ᙮

35.1 ᑫ ᓂᑲᓐᐊᑭᔪᑦ ᑭᒋᐅᑭᒪᐧᑫᓐ ᑲᐊᔭᒥᑕᒪᐧᐊᑦ ᑭᐧᐁᓐᑎᓄᒃ ᑫᐊᓄᑭᒡ ᑕ ᐅᓇᑭᒪᑲᓄᐸᓐ᙮ᒋ ᑫᒋᓇᑐᒃ ᐧᑲᔭᒃ ᒋᐅᓇᑯᓂᑲᑌᓂᑭᐣ ᐯᐸᑲᓐ ᐃᔑ ᒪᒪᓂᐧᐃᓇᓐ ᐁᐧᑲ ᒥᓇ ᑫᒋᓇᒡ ᐱᑯ ᒋᔭᓂ ᑎᐸᑯᓂᒥᒡ ᐅᒪᒪᓂᓐ᙮ ᐁᐧᑲ ᒥᓇ ᒋ ᑫᒋᓇᑐᒡ ᑲᐊᓂᑯᐦᑲᑯᑦ ᐅᑕᔭᒥᑕᒪᑫᓐ ᐁᑲ ᒋ ᐸᐸᔑᓴᓂᑦ ᒥᓇ ᐁᑲ ᑫᑯᓂᓂ ᒋ ᓇᓄᑌᓴᓂᒃ ᐊᐱ ᐁᐊᓄᑲᑕᒥᓂᑦ ᒪᒪᓂᐧᐃᓇᐣ ᐃᒪ ᐊᓂᔑᓇᐯ ᑕᔑᑫᐧᐃᓂᒃ᙮ ᐊᐧᐁ ᑲᓂᑲᓐᐊᑭᔪᒡ ᑭᒋᐅᑭᒪᐧᑫ ᐅᑕᔭᒥᑕᒪᑫᒪᓐ ᑭᐧᐁᓐᑎᓄᒃ ᐁᑕ ᓇᔑᒍ ᒋ ᑕᓇᓄᑭᑦ ᑕ ᐃᓇᑭᒪᑲᓄᐸᓐ ᐁᐧᑲ ᐅᓐᑕ ᐅᓐᒋ ᓇᓇᑲᒋᐃᑯᓐ ᐅᓐᑌᑎᐊ ᑭᒋᑎᐸᑯᓂᑫᐧᐃᑭᒪᓐ ᐊᔑᒡ ᐊᓂᔑᓇᐯᓐ ᑭᒋ ᐧᐃᒋᐃᐧᐁᓂᑦ ᐃᒪ ᓇᓇᑲᒋᒋᑫᐧᐃᓂᒃ᙮

35.2 ᑭᐦᐱᓐ ᑕᑯᓂᐧᐁᐧᐃᓂᓂ ᑭᒋᒪᒪᓂᐧᐃ ᑎᐸᑯᓂᑫᐧᐃᑲᒥᑯᒃ ᑲᐧᐃ ᑕᔑ ᐅᓇᓯᐧᐊᔪᑦ ᓇᓐᑕ ᑲᔦ ᑲᐧᐃ ᒧᒋ ᐊᔭᒥᐃᒡ ᓇᓐᑕ ᐁᑭ ᐃᔑ ᐧᐊᓂᑐᑕᒃ ᑯᑕᒡ ᐁᐸᑲᓂᔪᑦ ᐅᑕᔭᒥᑕᒪᑫ ᑕ ᐊᓄᓇᑲᓄᐸᓐ ᐅᐧᐁᓂ ᒋ ᐊᓄᑲᑕᒃ᙮ ᑲᔦ ᑲᑕ ᐃᓇᑕᒪᐧᐊᑲᓄᐸᓐ ᐁᑲ ᒋ ᐸᐸᔑᓴᑦ ᑲᔦ ᐁᑲ ᑫᑯᓐ ᒋ ᓄᑌᓴᑦ ᐧᑲᔭᒃ ᐱᑯ ᐧᐊᓇᑕᒃ ᒋᐊᓄᑲᑕᒃ ᐅᐧᐁᓂ ᐅᓇᓯᐧᐊᓂᐧᐁᐧᐃᓂᓂ᙮

35.3 ᑕ ᐃᓇᓯᐧᐊᔪ ᐊᐧᐁᑎ ᑭᒋᐅᑭᒪᐧᑫ ᐅᑕᔭᒥᑕᒪᑫᒪᓐ ᒋ ᐅᓇᑐᓐᒡ ᐃᔑᒋᑫᐧᐃᓐ ᑫᑐᒋᑲᑌᒃ ᐅᓇᐸᓐᑌᑭᓐ ᒪᒪᓂᐧᐃᓇ ᐊᓂᔑᓇᐯ ᐧᑲᔭᐦ ᐃᔑᒋᑫᐧᐃᓂᒃ ᑫᐅᓐᒋ ᐧᐁᐧᐁᓇᒋᑲᑌᑭᓐ ᒥᐦᑯᒡ ᐁᑲ ᑎᐸᑯᓂᑫᐧᐃᑲᒥᑯᒡ ᒋ ᐃᓯᒋᑲᑌᑭᓐ᙮

35.4 ᑕ ᐃᓇᓯᐧᐊᔪ ᐊᐧᐁᑎ ᑭᒋᐅᑭᒪᐧᑫ ᐅᑕᔭᒥᑕᒪᑫᒪᓐ ᒋ ᐅᓇᑐᓐᒡ ᐅᐧᐁ ᑐᑕᒧᐧᐃᓂᓂ, ᐊᓂᔑᓇᐯ ᐅᓂᑲᓂᑕᒪᑫᒃ ᒧᓯᒃ ᒋ ᑎᐸᒋᒧᑕᐧᐃᓐᐧᑕ ᐊᓂᓐ ᐁᓇᑯᓂᑲᑌᓂᓐᒃ ᑭᒋᒪᒪᓂᐧᐃᓂᓂ ᐃᒪ ᐅᑕᔑᑫᐧᐃᓂᐧᐊᒃ ᑲᑭ ᑕᔑ ᐃᑭᓂᓂᒃ᙮

36.1 ᒣᐧᑲᒻ ᑲ ᐅᓇᑌᒃ ᐊᓂᔑᓇᐯ ᐊᐦᑭᒃ ᑎᐸᑯᓂᑫᐧᐃᓐ ᐧᐃᒋᐃᐧᐁᐧᐃᓇᓐ ᑕ ᐊᓐᑕᐧᐁᓐᑕᐧᑲᓐ ᒋ ᐸᑭᑎᓇᒪᐧᐊᑌᒃ ᑫ ᑌᐱᓭᒻ ᓀᓂᔭᓐ. ᐁᐧᑲ ᒥᓇ ᑕ ᑲᐧᑫᒋᒪᐧᐊᒃ ᐅᐧᐁᓂ ᑲ ᐱᒧᓐᑐᐧᐊᑦ ᒋᑭ ᐧᐃᑐᑲᐧᐊᐧᐊᐸᓐ ᑭᐧᐁᓐᑎᓄᒃ ᑭᒋᐅᑭᒪᐧᑫ ᐅᑕᔭᒥᑕᒪᑫᒪᓐ ᒥᓇ ᐊᓂᔑᓇᐯ ᑕᔑᑫᐧᐃᓇᓐ ᒋ ᐅᓇᑐᓂᓐᒃ ᑎᐸᓐ ᐃᔑᒋᑫᐧᐃᓂᓂ ᑫᐃᓇᑯᓂᒥᓐᒃ ᐅᐢᑲᑎᓴᓐ ᒥᓇ ᑯᑕᑭᔭᓐ ᐊᐧᐃᔭ ᑲ ᒪᒪᓂᓂᑦ. ᐁᑲ ᐧᐃᓐ ᐃᑯ ᒧᓴᒃ ᑎᐸᑯᓂᑫᐧᐃ ᐃᔑᒋᑫᐧᐃᓂᒃ ᐅᓐᒋ ᐅᓇᓀᐧᐊᓯᐧᐊᐸᓐ ᐊᓂᔑᓇᐯᒃ ᑲᒪᒪᓂᐧᐊᑦ.

36.2 ᐅᑕᔭᒥᑕᒪᑫᒃ ᒣᐧᑲᒻ ᐁᑎᐸᑯᓂᑲᓂᐧᐊᓂᓂᒃ ᑲᐊᓄᑭᐧᐊᑦ ᐁᐧᑲ ᒥᓇ ᑲ ᓇᑕᒪᑫᐧᐊᑦ ᐅᑕᔭᒥᑕᒪᑫᒃ ᓀᔭᑲᓇ ᑲᔦ ᐸᔭᑕᒃ ᐅᓐᑕ ᐧᐊᐸᒪᐧᐊᐸᓂᓐ ᐃᓂ ᐊᐧᐃᔭᓐ ᑲᐧᐃ ᐧᐃᒋᐊᐧᐊᓐᒻ.

36.3 ᐊᓂᔑᓇᐯ ᐊᐦᑭ ᑎᐸᑯᓂᑫᐧᐃᓐ ᐧᐃᒋᐃᐧᐁᐧᐃᓂᒃ ᑲᑕ ᐊᓄᑲᑌ ᐅᓭᒻ ᑭᐧᓄᑲᐦ ᑲ ᐱᐅᓇᓄᒃ ᐊᐱ ᐊᐧᐃᔭ ᑲᐊᓐᑐᑕᒪᒋᓐ ᓀᓂᔭᐤ ᐧᐃᑐᑲᑫᐧᐃᓂᓂ. ᑭᐧᓇᑲᐦ ᑲ ᐱᐅᓇᓄᒃ ᓀᓂᔭᓐ ᒋ ᐸᑭᑎᓂᓐᒃ ᐃᐃᐧᐁ ᑲᐅᑕᒥᐦᐃᐧᐁᒪᑲᒃ ᐧᐃᐸᒃ ᒋᑭ ᐊᓄᑲᑌᒃ ᑎᐸᑯᓂᑫᐧᐃᓐ.

36.4 ᐧᐃᐸᒻ ᑕ ᓇᓇᑕᐧᐃᑭᑫᓐᒋᑲᑌ ᐊᓂᓐ ᑫᐃᓇᓄᑭᐧᐊᑦ ᑎᐸᑯᓂᑫᐧᐃᑲᒥᑯᒃ ᐅᑕᓄᑭᓐ ᒥᓇ ᐃᑭᐧᐁᓂᐧᐊᒃ ᐅᑕᓄᑭᒃ ᑲᐧᐊᐧᐃᒋᐊᐧᐊᑦ ᐅᑕᔭᒥᑕᒪᑫᓐ. ᑲᔦ ᑕᓇᓇᑕᐧᐃᑭᑫᓐᒋᑲᑌ ᐊᓂᓐ ᑫᑕᔑᓄᐧᐊᑦ ᒥᓇ ᐊᓂᓐ ᒥᓂᑯᒃ ᓀᓂᔭᓇᓐ ᑫᑌᐱᓭᓂᒻ ᐃᒪ ᐅᑕᓄᑭᐧᐃᓂᐧᐊᒃ ᑲᔦ ᐅᐸᐸᒧᓭᒥᐧᐃᓂᐧᐊᒻ.

<u>ᑲ ᑲᐧᑫ ᒥᓄᓂᓭᐅᒻ ᐅᒪᒪᓂᐦᒃ</u>

37. ᐁᑲ ᑲ ᑭᐸᐅᐧᑕ ᐅᒪᒪᓂᒃ ᑲ ᒧᒋ ᓇᑲᒋᐃᐧᑕ ᐃᒪ ᐅᑕᔑᑫᐧᐃᓂᐧᐊᒃ ᐊᓂᔑᓇᐯ ᐃᒪ ᑕᔑᑫᐧᐃᓂᓐ ᑲᐅᓐᒋᐟ ᐅᐧᐁ ᑕᐃᓇᓄᑭᐸᓐ. ᐯᔑᐧᑲᓐ ᐱᑯ ᑲᐃᔑ ᑭᐧᔕᑦ ᑲᔦ ᑲᐃᔑ ᐊᓂᔑᓇᐯᐱᒪᑎᓯᑦ ᐊᐧᐃᔭᒃ ᒋ ᐊᓄᑭᑕᐧᐊᐸᓐ ᐅᓄ ᐅᒪᒪᓂᓐ.

38. ᓇᐧᐊᒻ ᐧᑲᔭᒃ ᑲᐧᑫ ᐧᐃᑕᓄᑭᒥᑎᐧᐊᐸᐣ ᓂᔑᐣ ᐅᑭᒪᐧᐃᓇᒃ ᐅᐣᑌᓇᐅ ᑭᐸᐅᑎᐧᐃᐅᑭᒪᐧᐃᐣ ᒥᓇ ᐧᐃᒋᐃᐧᐁᐧᐃᓂᒃ ᐅᑭᒪᐧᐃᓐ ᑕ ᐃᔑᓭᓂᐸᓐ ᐯᔑᒃ ᐁᑕ ᐊᓂᔑᓇᐯ ᐅᑕᓄᑭ ᒋᑭ ᓇᑲᒋᐊᐸᓐ ᑭᒋᔭᐊᓐ ᑲᔦ ᐅᐢᑲᑎᓴᓐ ᐃᐃᒪ ᐯᔑᐧᑲᓐ ᐃᐢᑯᓂᑲᓂᒃ.

39. ᐊᓂᔑᓇᐯᒃ ᑫ ᑎᐯᐣᑕᒧᐧᐊᑦ ᑭᐸᐅᑎᐧᐃᑲᒥᑯᓐ ᑕ ᐅᔑᒋᑲᑌᐸᓂᓐ ᐊᔭᓐᑎ ᐱᑯ ᑫᐃᔑ ᓇᐦᐃᓭᑭᓐ ᒋᔑ ᑕᐧᑲᐧᑲᐸᓐ ᐅᐧᐁᑎ ᓀᓇᐧᐊᑲᒥᒃ ᑭᐧᐁᓐᑎᓄᒃ. ᐊᓂᔑᓇᐯᒃ ᐱᑯ ᒋ ᐅᑭᒪᐧᐊᐱᑕᒧᐧᐊᐸᓐ ᑲᔦ ᐊᓂᔑᓇᐯᒃ ᐃᐃᒪ ᒋᐊᓄᑭᐧᐊᐸᓐ. ᐃᐃᒪ ᑕᐦ ᑭᐸᐅᑎᐧᐃᑲᒥᑯᒃ ᑕᐱᒧᒋᑲᑌᐸᓂᓐ ᑭᑭᓄᐊᒪᑎᐧᐃᓐ, ᐊᓄᑭᐧᐃᓐ, ᒪᒥᓄᒥᐧᐁᐧᐃᓐ, ᐊᓇᒥᐊᐧᐃᓐ ᐁᐧᑲ ᑲᔦ ᐅᑕᒥᓄᐧᐃᓐ.

40. ᑎᑭᓇᑲᐦ ᐧᐊᐱᓀᐦᒋᓯᑭᒪᒃ ᑕ ᒥᓇᑲᓀᐸᓂᒃ ᒐᓂᔭᓇᐦ ᐧᑲᔭᒃ ᒋᑭ ᐊᓀᑲᑕᒍᐧᐊᑦ ᑲᐃᔑ ᐸᒥᐊᐧᐊᑦ ᐅᐢᑲᑎᓴᐦ ᓂᒐᓭᑉ ᐊᑯᓇᒃ ᒥᑕᑐᓂᔭᓇᐦ ᑲ ᑕᑐᐱᐳᓀᓂᐦᒡ᙮ ᐁᑲ ᐁᑕᑯ ᒋᐅᐦᒋ ᑲᓇᐧᐁᓂᒪᐧᐊᑦ ᑲᑭ ᒪᒪᓂᓂᑦ ᑲᔦ ᐱᑯ ᒋᐊᓀᑲᑕᒍᐧᐊᑦ ᑎᐸᐦ ᐃᔑᒋᑫᐧᐃᓂᓂ ᑫᑭ ᐊᐸᑕᓂᑭᐸᐦ ᐊᐱᒡ ᐧᐃᐦ ᑎᐸᑯᓂᑫᐧᐃᑲᒥᐦᒃ᙮

ᒥᑐᓂ ᑲ ᓇᓇᑲᒋᒋᑲᑌ ᐊᓂᐦ ᑲ ᐃᓇᐱᓀᒡ ᐊᐧᐃᔭ ᑲᓂᐳᑦ

41. ᐊᐧᐊᔑᒣ ᑭᔭᐱᒡ ᑕ ᑐᒋᑲᑌᐸᐦ ᒥᐦᑐᓂ ᑲ ᓇᓇᑕᐧᐃᑭᑫᐦᒋᑲᑌᒃ ᐊᓂᐦ ᑲᑎᑦ ᐊᐧᐃᔭ ᑲ ᓂᔑᐧᐊᓇᑎᓯᒋᐦ᙮ ᒋᑭ ᐅᐦᒋ ᑭᑫᐦᒋᑲᑌᒃ ᐊᓂᐦ ᒋᐃᔑ ᐊᔭᐧᑲᒥᓯᓇᓄᒃ ᐁᐧᑲ ᒥᓇ ᒋ ᐅᐦᒋ ᑭᑭᓄᐊᒪᐧᐃᐦᐧᑕ ᐊᓂᔑᓇᐯᒃ ᒋᓂᑕ ᓂᓯᑕᐧᐃᓇᒍᐧᐊᐦᒡ ᐊᓂᐦ ᑲᐃᑎᓂᑦ ᐊᐧᐃᔭᐦ ᑲᓂᐸᓂᑦ᙮ ᐁᐧᑲ ᒥᓇ ᒥᓯᐧᐁᑲᒥᒃ ᒋ ᑭᑫᐦᑕᐧᑲᑭᐸᐦ ᐊᓂᐦ ᐁᐱᒋ ᑲᐧᑲᑕᑭᓇᐧᑲᒃ ᐱᒪᑎᓯᐧᐃᐦ ᑲᔦ ᐅᑕᒋᐅᐧᐃᐦ ᐅᐦᒋ ᓂᔑᐧᐊᓇᑎᐧᐊᑦ ᐊᑯ ᐊᐧᐃᔭᒃ ᐧᐁᑎ ᑕᔑᑫᐧᐃᓂᒃ᙮

ᐊᓂᔑᓇᐯ ᐱᒍᐦᒋᑫᐧᐃᓇ ᒥᓇ ᑎᐸᑯᓂᑫᐧᐃᐦ ᑫᐃᓇᓄᑲᑌᒃ

42. ᐊᓂᔑᓇᐯ ᐊᐢᑭ ᐅᑭᒪᐧᐃᐦ ᒥᓇ ᐧᐃᐦᑎᑯ ᐅᓇᒐᐧᐁᐤ ᐊᓄᑭᐧᐃᐦ ᑲᔦ ᐃᐢᑯᓂᑲᓇᐦ ᒥᑐᓂ ᐧᑲᔭᒃ ᐅᑲ ᐧᐃᑕᓄᑭᒪᐧᐊᐦ ᑲᓇᑕ ᒥᓇ ᐅᐦᑌᑎᐅ ᐅᑭᒪᐦ ᐧᐁᐧᐁᓇᑐᐧᐊᑦ ᑫᑯᓇᐦ ᐁᑲ ᑲᒥᓄᓴᓂᑭᐦ᙮ ᐊᓂᐦ ᐱᑯ ᐃᐧᐁ ᑫᑯᐦ ᑲᐧᐃ ᒪᑕᓄᑲᑌᒃ ᒥᓯᐧᐁ ᐱᒪᑎᓯᐧᐃᓂᒃ ᑲᔦ ᐅᑕᒋᐅᐧᐃᓂᒃ ᓇᐦᑕ ᒥᓇ ᑖᑯᓂᐧᐁᐧᐃ ᐊᓄᑭᐧᐃᐦ ᑲᔦ ᑎᐸᑯᓂᑫᐧᐃ ᐊᓄᑭᐧᐃᐦ ᑫ ᑭᑭᓇᐧᐊᒋᐢᑲᒪᐧᐊᑕᒍᐧᐊᒡ ᐊᓂᔑᓇᐯ ᐅᑭᒪᐤ ᐊᓄᑭᐧᐃᓇᐦ ᑫᒋᐧᐁ ᑲᑕ ᐸᐸᒥᓯᐧᐊᒃ ᒋ ᐧᐊᐧᐁᓇᑐᐧᐊᑦ ᐅᓄ ᑫᑯᓇᐦ ᐁᑲ ᑲᒥᓄᓴᓂᑭᐦ ᑲᔦ ᐱᑯ ᐁᑲ ᑭᑭᓇᐧᐊᐦᑲᒃ ᑲᑕᐧᑲᓂᓂᑭᐦ ᐊᓂᔑᓇᐯᑲᒃ᙮

43. ᐅᑕᐱᑕᒪᑫᒃ ᑫ ᑭᑭᓇᐧᐊᐦᒋᐢᑲᒪᐧᐊᑕᒍᐧᐊᑦ ᑲᓇᑕ, ᐅᐦᑌᑎᐅ ᐅᑭᒪᐧᐃᓇᐦ ᑲᔦ ᐊᓂᔑᓇᐯ ᑕᔑᑫᐧᐃᓇᐦ ᐅᑲ ᐊᓀᑲᑕᓇᐧᐊ ᑫᒋᓇᒡ ᒋᐊᓂ ᑐᒋᑲᑌᓂᑭᐦ ᐅᓄᐧᐁᓂᐧᐊᐦ ᐅᓇᒐᒍᓇᐦ ᐅᒪ ᑲᐅᔑᐱᐃᑲᑌᓂᑭᐦ᙮

"Power has two aspects.... It is a social necessity.... It is also a social menace."

Bertrand de Jouvenal

On Power: Its Nature and the History of Its Growth, Viking Press, New York, 1949, p.283.

E. REFERENCES

1. A SUMMARY OF WRITINGS ON FIRST NATIONS PEOPLES AND CRIMINAL JUSTICE

Introduction

The purpose of this section is to outline the literature that has identified problems that First Nations people encounter with the criminal justice system. We will also identify the suggested steps that, according to the commentators have to be taken to seek solutions.

The Problems

With the recent negotiations involving the Meech Lake Accord, the constitutional structure of the country has been examined at length by academics, the media and by the public at large. The constitutional myth propagated during this latest series of constitutional talks is that Canada is a duality.[40] This conception of Canada ignores reality because the model of Canada being founded by two peoples is hopelessly incomplete - it ignores the existence of Canada's First Nations: Inuit, Indian and Metis. The recent stand of Elijah Harper in defence of the "forgotten" First Nations reminds us of the need for a rejuvenated national agenda to meet the current problems of Canada's aboriginal peoples. Many informed commentators agree that the largest source of problems for First Nations stems from the fact that they have little actual control over the manner in which they live. Most decisions regarding social, economic, health, education, or law enforcement issues that affect them are made by others "on their behalf".

Although many social and economic problems bring native people into conflict with the Canadian judicial system, some may be readily identified. One of the most evident causes of the over-representation of native people in the courts and prisons of Canada is the social disintegration and deprivation that has arisen from the history of relations between Canada, the Provinces, and the First Nations. In 1980, the Department of Indian Affairs and Northern development published a report entitled Indian Conditions: A Survey. This survey revealed a shocking degree of social and economic deprivation. Listed below are some of the findings of the survey which, according to the Special Committee of the House of Commons on Indian Self-Government, have not changed in any appreciable manner since the reporting of the survey.[41]

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[40]William Thorsell, "Let us Compare Mythologies", Saturday Night, May 1990.

[41]K. Penner (Chair), Report of the Special Committee on Indian Self-Government, Supply and Services Canada, Ottawa, October 12, 1983. See also, Unfinished Business: An Agenda for all Canadians in the 1990s, The House of Commons Standing Committee on Aboriginal Affairs, March 1990 confirms that many of the negative comparisons between the quality of life of First Nations people when compared to non-native Canadians are still current problems.

Child Welfare: The proportion of Indian children in care has risen steadily to more than fives times the national rate.

Education: Only 20 per cent of Indian children stay in school to the end of the secondary level; the comparable rate for non-natives is 75 per cent.

Housing: Nearly 19 per cent of on-reserve homes have two or more families living in them; these conditions affect nearly 40 per cent of all status Indian families.

Facilities: In 1977, fewer than 40 per cent of Indian houses had running water, sewage disposal or indoor plumbing facilities; the national level of properly serviced houses is over 90 per cent.

Income: The average income of Indian people is one-half to two-thirds of the national average.

Unemployment : The unemployment rate among Indian people is about 35 per cent of the working age population; in some areas it is as high as 90 per cent.

Death rate: Despite improvement over the past 10 years, the death rate among Indian people is two to four times the rate for non-Indians.

Causes of Death: Accidents, poisoning and violence account for over 33 per cent of deaths among Indian people, as compared with 9 per cent for the Canadian population as a whole. Indian people die from fire at a rate that is seven times that for the rest of the Canadian population.

Violent death: The overall rate of violent deaths among Indian people is more than three times the national average.

Suicide: Indian deaths due to suicide are almost three times the national rate; suicide is especially prevalent among Indians aged 15 to 24.

Infant Mortality: The infant mortality rate (up to the age of four weeks) among Indian children is 60 per cent higher than the national rate.

Life Expectancy: If an Indian child survives its first year of life, it can expect to live 10 years less than a non-Indian Canadian. The life expectancy of Indian women, for example, is 66.2 years, while non-Indian women can expect to live 76.3 years.[42]

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[42]The Globe and Mail recently published some statistics provided by the Department of Indian Affairs and Northern Development (DIAND). It reported that there are 444,000 "status" Indians in Canada (1.6% of the population) and 33,000 Inuit. As of 1988, the life expectancy of Indians was about eight years less than the Canadian average. Death by suicide was 2 times more common, death from injury or poisoning four times more common. Infant mortality was 1.7 times the national average. One interesting statistic was that the number of Indian

The Special Committee on Indian Self-Government identified several factors which prevent the people who live under these conditions from changing them. First, native people must deal with a myriad of departments within the federal government structure while having to interact with the provincial authorities as well, resulting in a high level of governmental complexity rendering any change for the future difficult. Second, the Special Committee identified several areas of concern in relation to the Indian Act. The Special Committee pointed to many anomalies and inadequacies in the Act that was, at the time it reported, last amended over thirty years ago.[43] The Indian Act fails to recognize the diversity of Indian peoples, treating them as a homogeneous group without taking into account the variations in culture, language, resources, size and location of communities. This absence of flexibility may be seen as a means of assimilation.

The Indian Act prevents the First Nations from changing the conditions in which they live as they are only delegated very limited responsibility, the Department of Indian Affairs and Northern Development making planning and budgetary decisions without adequate input from First Nations. They, as a result, criticise the Indian Act and DIAND for creating a system that does not allow them to respond to the needs of their communities.

The Special Committee, after extensive public hearings identified education, child welfare and health as areas of particular concern. Many of the people who appeared before the Special Committee indicated that without control of these critical areas the survival of aboriginal culture could not be ensured.

The concern regarding education was that only First Nations could plan an educational curriculum for native people without it amounting to assimilation. Indian control over education is seen as an essential component in strengthening Indian culture and preserving Indian heritage. An example of a successfully run native school board was that of the Cree School Board which came about as a result of the James Bay and Northern Quebec Agreement between the Government of the Province of Quebec, Canada and the Grand Council of the Crees of Quebec.

The necessity of First Nations control of child welfare focuses on the importance of aboriginal - over other - views of child care and the wish to discontinue the enforcement of child welfare policies on reserves which have had a tragic effect on Indian family life. The Special Committee, in its report, points to the large number of children in the care of the provincial welfare authorities as proof of a significant problem. The committee cites a recent study which claims that in 1955 one per cent of the children in the care of child welfare authorities in British Columbia were of Indian ancestry. By 1964 this figure had risen to 34.2 per cent. The author of the study referred to the

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students in university has risen from 60 in 1960-61 to 5,800 students in 1985-86.

[43]Minor amendments have been made since the report of the Special Committee, e.g. 1985.

practice as the "sixties scoop" where the removal of native children took place on the slightest pretext in order to save them from what the social workers considered to be poor living conditions.[44]

One of the main criticisms of provincial control of child welfare of First Nations children is that the values which white social workers bring in assessing the family environment in which a native child lives are those acceptable to the Euro-Canadian society. The problem here is that the standard used to judge the family situation is a non-native standard and therefore culturally different. The area of child welfare is one that the First Nations have expressed a clear desire to control.

The shocking degree of ill-health among Indian people has been widely documented. Despite the attempts of the federal medical care programmes for Indians and Inuits which have been extensive, involving significant sums of money for health services, Indian health has not improved to any great extent. The Report of the Advisory Commission on Indian and Inuit Health Consultation noted that the problems are not the result of departmental neglect but rather due to larger problems outside the scope of the Medical Services Branch of the Department of National Health and Welfare. The report points to the problems of poverty, poor housing, lack of clean water, inadequate sewage and garbage disposal and poor diet as preventing any real improvement in health.[45]

The Special Committee recognized the need to control these critical areas and recommended, in general terms, the creation of conditions under which the First Nations people could ensure that future generations would be able to preserve and enjoy their culture and heritage. The recommendations of the Special Committee while extensive do not deal directly with the question of native people in conflict with the judicial system.

The Alberta Board of Review, Provincial Courts[46] undertook in 1973 a general review of the administration of justice in the Provincial Courts of Alberta. The Board of Review issued four reports, the fourth being an assessment of the administration of justice as it relates to native persons in the Provincial Courts of Alberta. The report outlines many of the characteristics of the native people within the criminal justice system. The report identified several social and economic problems which bring native people into conflict with the judicial system. The factors listed below are the factors that the native people felt were responsible for the disproportionate numbers of native people in conflict with the justice system:

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[44]Patrick Johnson, Native Children and the Child Welfare System, Canadian Council on Social Development, Ottawa, 1983, p.23.

[45]The Hon. Mr. Justice Thomas Berger, Report of Advisory Commission on Indian and Inuit Health Consultation, Ottawa, 1980, p.3.

[46]Mr. Justice W.J.C. Kirby (Chair), "Native People and The Administration of Justice in the Provincial Courts of Alberta", Reports, Board of Review, Edmonton, 1978.

(1) Alcohol

(2) Unemployment

(3) Poverty

(4) Welfare

(5) Education

(6) Recreation facilities

(7) The relationship between native people and the police

(8) The relationship between native people and the Court

(9) The relationship between native people and the enforcement of the Wildlife Act and related statutes.

The Board of Review focused on the relationship between the native people and the courts, the relationship between the native people and the police and wildlife enforcement officers and the problem of alcohol in the various native communities. The Board heard many submissions from native people who held that newly appointed police officers had little experience with First Nations people. They frequently stopped and questioned Indians, it is said, without any apparent reason. A belief was held by many Indians that young officers considered that their chances of promotion were related to the number of arrests they made.

The treatment accorded native people by the police was widely criticised including the following points:

(a) Requests for medical treatment are often ignored.

(b) The police regularly show a lack of respect for Indian customs. For example, although Indian custom regards nudity before another person as a breach of basic ethics, Indians are made to strip naked before police officers.

(c) When native people are arrested, statements may be taken from them without them having the opportunity of contacting a Native counselling service courtworker. Natives often make statements without being fully aware of their rights.[47]

(d) Native people feel that they are often discriminated against by young members of the R.C.M.P. because of their race.

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[47]Query: Has this changed in light of the Charter developments regarding the right to counsel?

(e) There is a tendency reported by native people that the police attempt to influence native people to enter a plea of guilty before they consult a native courtworker or a Legal Aid officer.

(f) Natives report techniques employed by police to obtain confessions are prejudicial. Furthermore natives claim that once a native has made a plea of guilty to one charge they are then pressured into signing statements admitting to other offences.

The Board quoted the following observation as summing-up the problem between the native people and the Euro-Canadian court process in which they often find themselves immersed:

> "The native Indian often feels greatly handicapped by virtue of his different cultural upbringing, lack of formal education, understanding and acceptance of non-Indian ways of life, in asserting and ensuring his rights when brought in contact with the various law enforcement agencies. The strange situation with which he is faced when brought before the courts is often overwhelming and incomprehensible... Indians have little understanding of their legal rights, of Court procedures or resources such as Legal Aid....(As a consequence) it appears that most Indian people enter guilty pleas either because they do not understand the concept of legal guilt and innocence or because they are fearful of exercising their rights."[48]

The Board of Review also heard submissions about the lack of sensitivity and understanding of the Indian people by officials of the court - judges, lawyers, police - and others respecting the Indian, his community, society, culture and language. The native person is different from the Euro-Canadian and the differences must come to be understood before the law will be relevant to the native individual.

The abuse of alcohol was seen as one of the most serious factors contributing to the over-representation of natives in the criminal justice system. The Board of Review referred to a survey by the Native Counselling Service submitted to it which analyzed the convictions under the Liquor Control Act resulting in detention in provincial correctional institutions. The purpose of the report was to examine the problem of alcoholism as it relates to the native population and to compare the incidents of sentences on the native and

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[48]Michael C. Bennett, "The Indian Counsellor Project - Help for the Accused", Canadian Journal of Corrections, Vol. 15, 1973, p.1.

non-native population. The report shows that of the 288 individuals serving sentences for offences under the Liquor Control Act for the two-month period of the study, 228 (78.1 per cent) were native people. The report showed that the sentences imposed on native persons, both female and male, were more severe than those imposed on non-native persons. The only exception was for illegal possession of liquor where the opposite was true by a narrow margin. Due to the limited time frame of the report the Board of Review felt that the results could not be seen as conclusive although they were consistent with the findings of the Research and Planning Division of the Solicitor General's Department which found that the ratio of sentenced native inmates to non-native inmates for alcohol related offences was approximately 3:1. The report of the Department of the Solicitor General was included as an appendix to the report of the Board of Review.

Despite these suggestions two more judicial reviews are currently underway in Alberta once more looking at First Nations issues and yet once more finding the same problems. Perhaps the answer is that tinkering with the existing system can never be the solution?

Recently the Department of Indian and Northern Affairs released a report entitled Indian Policing Policy Review: Task Force Report[49] revealing some shocking statistics about the current crime rates affecting members of the First Nations. The report revealed that:

- the crime rates for on-reserve Indians are significantly higher than the overall crime rate;

- the average number of on-reserve crimes per 1,000 is approximately four times the national average; and

- the rate of on-reserve violent crimes per 1,000 (crimes against "persons") is six times the national average, for property crimes the rate is two times the national average and for other Criminal Code offences the rate is four times the national average.

The task force report concludes that these statistics indicate that in general, Indian communities do not enjoy the same protection of the person and security of property as non-native communities and that the incidence of crime is perceived as placing a heavy burden on the local police services.

In addition to the assessments made by various governmental agencies, the subject of the problems of the native communities has not gone unnoticed by others, including academics. Most academics point to the imposition of a Euro-Canadian system of law that holds little significance for the native people resulting in a denial of self-determination for native people, the loss of traditional native values and customs and the tragically high over-representation of native offenders within the judicial system. The justice

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[49]Indian Policing Policy Review: Task Force Report, Ministry of Indian and Northern Affairs, Ottawa, 1990, p.3.

system has failed native Canadians by being non-adaptive and non-responsive to native values manifesting itself in a high number of natives within the prison population. The National Parole Board estimated in November of 1987 that 10 per cent of the male and 13 per cent of the female population in federal penitentiaries are native, although they make up only about 2 per cent of the general population. In provincial institutions, the statistics are even more alarming as the percentage of native inmates ranged from 10 per cent in Ontario to over 50 per cent in Saskatchewan. These figures and those of the other provinces are three to five times higher than the figures quoted for 1971.[50]

Social scientists have postulated various reasons why native people are so tragically over-represented in the criminal justice system including their marginalized social status within the larger community, absence of an economic land-base, unemployment, poverty and social dysfunction, lack of adequate representation within the legal system, cultural conflict when native values and white institutions interact, as well as outright racism within the justice system. The Royal Commission of Inquiry into the Donald Marshall Jr. Prosecution, found that all of these factors play a role in the treatment native persons receive when they come into contact with the criminal justice system.[51]

Although the effects of the problems are widely documented and many statistics exist to express the shocking conditions under which the people of the First Nations continue to live and although many social scientists and government agencies propose answers to the problems, it seems that the reality of the situation will not change without recognizing the right of the people of the First Nations to control the conditions which ultimately affect their lives.

The Proposed Solutions

This section will concentrate on the administration of criminal justice as it relates to native people and will examine the various proposals in the literature on native people and the police, legal aid services, the courts, lawyers, the judiciary, and correctional services.

A. The Police

For most people, including the First Nations, contact with the Canadian justice system is initially made through the police. Many criticisms have been levelled against the treatment of native people by the police. Police forces generally lack familiarity with the language, culture and social problems of each First Nations area. Investigations are made difficult by an inability of the police to speak the language of the people that they are investigating

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[50]Brad Morse and Linda Lock, Native Offenders' Perceptions of the Criminal Justice System, Department of Justice Canada, Ottawa, 1988, p.93.

[51]"Royal Commission of Inquiry Into The Donald Marshall Jr. Prosecution", Summary of Findings, Vol. No. 8, Digest of Findings and Recommendations, Queen's Printer, Halifax, Feb. 1990.

and because of the fact that the police are seen as instruments of the Euro-Canadian system to maintain control over the native people. Effective policing requires, according to some, a "relationship between the police and the community that not only share responsibility for community problems but involves both parties for the determination of priorities and solutions."[52]

In fact, many have recommended autonomous native policing - operated by the First Nations people through their respective band councils or groups of band councils who would be more able to tailor police programmes to meet the needs of particular communities.[53] It is also felt that the officers comprising such police forces would come from the native residents and would already be familiar with local customs and problems.[54]

The creation of First Nations police arrangements is not without problems. Some officers experience a backlash and ostracism from members of their community who see officers as having "sold out to the white persons' ways." On the other hand First Nations officers, who are a minority on a non-native police force, face pressure to conform to the majority of police officers who are white. They are forced to utilize the methods of law enforcement favoured by the white officers and to remain silent in the face of wrongs committed against citizens by the police.[55]

On balance, therefore, it is still preferable according to the Canadian Corrections Association that members of forces policing native people come from that particular community. The problems noted above can be overcome by clearly defined authority and jurisdiction, training in police methods, adequate pay, support staff and facilities. The recruitment of suitable candidates would allow the First Nations police to earn the respect of all people - native and non-native alike.

As the control of the policing is recognized as a First Nations responsibility the image of the police would improve as well as the image of the justice system. The current attitude of native people toward the police can best be described as an attitude of ambivalence.[56] The need for preventive

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[52]C. Murphy and G. Muir, Community-Based Policing: A Review of the Critical Issues, Ministry of the Solicitor General, Programs Branch, Ottawa, 1985, p.289.

[53]Social Policy Research Associates/The Evaluation Group Incorporated, National Evaluation Overview of Indian Policing, Ottawa, 1983, p.58

[54]"Aboriginal Customary Law-Recognition?", Discussion Paper No. 17, Australia Law Reform Commission, Sydney, November 1980, p.86.

[55]P. Havemann, Law and Order for Canada's Indigenous People, Ministry of the Solicitor General, Ottawa, 1985, p.33.

[56]D. Skoog, L.W. Roberts and E.D. Boldt, "Native Attitudes Toward the Police", Canadian Journal of Criminology, Vol. 22, 1980, p.358.

policing has been stressed as a goal for the native communities rather than the narrow role of the police as simple enforcers of the law.[57]

In communities where all-native police forces are not yet viable, suggestions have been made for the improvement of policing by non-native officers. In Australia, the House of Representatives Standing Committee on Aboriginal Affairs has supported the view that

> "the establishment of an Aboriginal-Police liaison system offers the greatest potential for improving Aboriginal police relations."[58]

The Committee also recognized that the situation will only improve when there has been a change in attitude and a sincere commitment to proper liaison on the part of both the police and the aboriginal people.

In 1973 the Conference on Northern Justice called for the establishment of police commissions made up of native people from local governments. The commissions would be made up from one or several band councils with local police officers accountable to the commissions and therefore, indirectly, to the native communities.[59]

Even if no attempt were to be made to recognize the right of the people of the First Nations to control the police in their communities, it is recognized that some Euro-Canadian police officers possess racist attitudes toward native persons. In some jurisdictions, studies have found that

> "a high percentage of police officers viewed natives as lazy and as drunkards, a perception which significantly influenced their patterns of contact with natives."[60]

These racist attitudes stem from a lack of understanding and knowledge of cultural differences between natives and non-native peoples. Methods that police utilize in one community may not function in another, given the

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[57]Carson B. Carter, "Policing the Reserved Indian", Thesis for M.A. University of Ottawa, 1976 (unpublished), p.52.

[58]Report of the House of Representatives, Standing Committee on Aboriginal Affairs, Aboriginal Legal Aid, Canberra, Australia, July 1980, p.75.

[59]Report of the Conference on Northern Justice, Canada, 1973, p.7.

[60]C.T. Griffiths and J.C. Yerbury, "Natives and Criminal Justice Policy: The Case of Native Policing", Canadian Journal of Criminology, Vol. 26, 1984, p.148.

differences between aboriginal groups. In response to these problems increased cross-cultural education has been recommended.[61]

In 1973 the Alberta Board of Review, Provincial Courts, as part of its assessment of the representation of native persons in the Provincial Courts of Alberta, made extensive recommendations regarding the policing of native persons in that province. The Board of Review made the following recommendations:

> "The position of Native Policing Co-Ordinator should be established by the R.C.M.P. in Alberta for the purpose of providing liaison between the R.C.M.P. and Native People.
>
> "Appropriate administrative directions should be given to city police to ensure that all complaints by Native people about suspected discrimination by city police are brought to the immediate attention of the chief of that police force.
>
> "Band Police and Special constables appointed under the Police Act 1973 should be given a longer and more comprehensive course of training.
>
> "Band Police Commissions, having a membership made up of a minority representation of the Band Council and a majority representation from the reserve at large, should be established on reserves having Band Police.
>
> "The Native Special Constable Programme should continue to be accorded full support by the provincial government."

The R.C.M.P. should be requested to give consideration to:

(a) providing Native Special Constables with official badges;

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[61]S. Jolly, "Natives in Conflict with the Law", Correctional Options, Vol. 2, 1981-1984, p.96.

(b) the matter of promotion of Native Special Constables.[62]

As a step to First Nations autonomy, control of the police is seen as an important milestone. While the Royal Commission on the Donald Marshall Jr. Prosecution has recommended the hiring of more native constables, many favour the approach proposed by the Federal Task Force on Indian Policing Policy that policing initiatives must include equitable and culturally sensitive service delivery, directly linked to the participation of Indian people in the direction, administration and operation of Indian policing services.[63] In the interim, it is suggested by some that the federal government take the initiative in amending s.81 of the Indian Act to confer limited powers of police officers on band constables appointed for the purpose of by-law enforcement.[64] Others have also suggested that, in order to fund these band police forces, s.104 could be used to provide "direct payment... of all fines resulting from breach of band by-laws to the band council."[65]

The last word on the provision of police services to the people of the First Nations belongs to the Interdepartmental Task Force which released in February of 1990 its overview of existing policing arrangements for native people under the title Indian Policing Policy Review. Not only did this report reveal statistics which should give everyone cause for concern,[66] but it also brought forth possible ways to make progress, under the headings of principles and conclusions, vis:

(a) Indian communities are entitled to the same level and quality of policing services as other similarly situated communities in the region.

(b) On-reserve policing services should be adapted to ensure they are culturally sensitive.

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[62]The Native Special Constable Program created in 1975 a special branch of the R.C.M.P. consisting of nine native people who received ten weeks of training. They were posted to detachments in High Prairie, St.Paul, Pincher Creek, Cardston, Gleichen, Slave Lake and Calgary. As of 1977, 26 native special constables have been qualified and posted.

[63]Federal Interdepartmental Task Force, Indian Policing Policy Review, Queen's Printer, Ottawa, 1990, p.13.

[64]Richard Bartlett, "The Power and Jurisdiction of an Indian Act Band Police Force", Canadian Native Law Reporter, Vol. 2, 1985, p.5.

[65]Bradford Morse, "By-law Enforcement Options", Canadian Native Law Reporter, Vol. 2, 1980, p.65.

[66]Indian Policing Policy Review: Task Force Report, Ministry of Indian and Northern Affairs, Ottawa, 1990, p.11.

(c) Federal policing policy should allow for sufficient flexibility to accommodate regional and local variations.

(d) Policing services, whether Indian or not, should be responsible for the enforcement of validly enacted laws relating to law and order, the protection of the person and the security of property regardless of whether the applicable law was enacted at the federal, provincial or territorial or band level.

(e) In view of the federal government's commitment to support Indian self-government, any adjustment to federal on-reserve policing policy should be consistent with, and facilitate movement towards, increased Indian participation.

(f) Police services on reserves must be independent of the band by-law making authority, yet be accountable to the communities they serve.

(g) The federal, provincial, territorial and Indian governments each have a legitimate role to play in the provision on Indian on-reserve policing services.

(h) Subject to the outcome of self-government negotiations which may affect the mix of federal, provincial, territorial and Indian involvement, on-reserve law enforcement programmes should operate under the legislation, authority and requirements of the region in which the particular programme is located. Officers employed on reserves should have provincial police officer status.[67]

The Task Force, based upon these stated principles, came to the following six conclusions:

(1) Parties should consult on and negotiate the issues of: (i) access to general policing services; (ii) access to culturally sensitive policing services; (iii) the provision of services which meet mutually acceptable regional standards for training and salaries, equipment and operational support and (iv) the jurisdiction of constables, in terms of both location and authority.

(2) The federal government should ensure that any governing structures for on-reserve policing services provide for the active participation of Indian communities through negotiation between the province or territory and the Indian bands.

(3) The federal government should continue to affirm its willingness to include the administration of justice, and policing in particular, in the negotiation between the province or territory and the Indian bands.

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[67]Ibid., pp.22-23.

(4) The federal government should continue to contribute financially to on-reserve policing services which meet mutually agreed criteria.

(5) In applying any new policy, the federal government should seek to ensure consistency in its level of financial participation, and to promote national objectives.

(6) The revised federal policy should be implemented on a phased basis, through negotiations among federal, provincial, territorial and Indian authorities.

The Task Force report ends with an expressed desire that the principles and conclusions presented above will provide a clear and sound base for future consultations and recommendations to Cabinet.[68]

B. Native People and Legal Aid Services

In spite of the obvious reality of over-representation of native people coming into contact with the Canadian justice system, it is an unfortunate fact that in many circumstances the native person has not benefitted from the assistance of legal aid programmes. These programmes, intended to remove the financial barriers to acquiring competent legal counsel, have not always reached Canada's poorest peoples, the native people of Canada.[69]

The legal aid programme in Australia is pointed to as an example of a more successful programme which aids aboriginal people in similar economic circumstances to the native people of Canada.[70] Unlike the reforms in Australia such as the Police-Aboriginal Liaison System which is considered a failure because of police insincerity, the Aboriginal Legal Aid Services programme has brought forth cases on behalf of aboriginal people which have resulted in changes in the manner in which aboriginal people are treated by police.[71]

The main problems regarding the provision of legal aid services are associated with the geographic isolation of many of the communities and the prohibitive costs of providing such a programme to so many small communities. The Canadian Bar Association - Ontario has suggested an interim assessment and

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[68]Ibid.

[69]This is changing in some parts of the country as new proposals for a legal services corporation are going ahead in Northern Ontario.

[70]J. Coldrey and F. Vincent, "Tales from the Frontier: White Laws - Black People", Legal Services Bulletin, Vol. 5, 1980, p.221 .

[71]C. Tatz, "Aborigines: Legal Aid and Law Reform", Legal Services Bulletin, Vol. 5, 1980, p.95.

approval of applications for legal aid through a direct line telephone contact.[72] Other problems associated with the geographic isolation also occur. Due to the prohibitive transportation costs, native people have little or no access to adequate legal services; and, lacking an awareness of what constitutes a legal problem, they fail to take advantage of legal services available to them. Finally, due to the great distance, it is difficult for an accused to meet with defence counsel before the day of his trial.[73]

One step in improving the delivery of legal services to the members of First Nations communities would be to situate legal aid offices staffed and operated by native persons in all First Nations territories. Staff could explain the differences between statutory law and native customs while attempting to ease the perception of legal aid services as an integral part of the dominant non-native community.[74]

In those communities where it is not yet viable to establish legal aid offices, some suggest the increased use of paralegals in the north providing:

> "on-site legal information sufficient to encourage potential clients to make knowledgeable choices and, if necessary, to obtain legal assistance in the realm of criminal, civil, and administrative law.... to divert from the legal process local conflicts that are best resolved in the village."[75]

The Canadian Bar Association suggests alternatively that incentives for lawyers to re-locate to the north be increased.

The Alberta Board of Review Report enumerates many criticisms of the legal aid system in Alberta in the late 1970s. Its recommendations were as follows:

(a) Native courtworkers should be required to ensure that a native person charged with an offence is informed of the availability of Legal Aid and to assist him or her in obtaining it. In the absence

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[72]W. Harnett (Chair), Access to Justice: An Inquiry into Legal Aid in Ontario, Canadian Bar Association-Ontario, Toronto, 1986, p.56.

[73]H. Savage, "Problems in Delivering Legal Services to Native Groups in Remote Areas", Conference on Legal Aid: Report and Proceedings, Canadian Council on Social Development, Ottawa, 1975, p.24.

[74]Report of the House of Representatives, Standing Committee on Aboriginal Affairs, op. cit., p.122.

[75]S. Conn and A. Hippler, "Paralegals in the Bush", University of California, Los Angeles - Alaska Law Review, Vol. 2, 1973-1974, p.94.

of a native courtworker, this information should be provided by the police.[76]

(b) Legal Aid counsel should be required to be available for consultation with their native clients in sufficient time before trial to afford a proper opportunity for consultation.

(c) More simplified and speedy procedure should be provided by the Legal Aid Society to enable native people living outside centres where Legal Aid services are provided to enable them to obtain Legal Aid.

(d) A programme should be instituted to inform native people of the facilities at their disposal.

(e) Native people should be accorded representation on Legal Aid assessment committees.

(f) Consideration should be given to extending Legal Aid in more summary conviction offences.

C. Native People and the Courts

The people of the First Nations legitimately feel that the laws and courts of the Euro-Canadians have been imposed on them ever since non-natives came in to a dominant position in this country. It is felt that these courts, which enforce the "white" laws, fail to take into account the realities of the native ways and thus have limited effectiveness.[77] While more native personnel working within the court system is desirable, at the very least, court staff should be provided with some cross-cultural training.

The remoteness of the native communities again causes difficulties between the native people and the courts. The remoteness of these communities prevent them from seeing justice done in their communities[78] thus violating a basic tenet of the Canadian judicial system.[79] The remoteness of these communities creates costs preventing native people from travelling to their

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[76]Query: Has this situation changed since the advent of the Charter?

[77]Bradford Morse and Linda Lock, Native Offenders' Perceptions of the Criminal Justice System, Department of Justice Canada, Ottawa, 1988, p.93.

[78]H. Savage, "Problems in Delivering Legal Services to Native Groups in Remote Areas", Conference on Legal Aid: Report and Proceedings, Canadian Council on Social Development, Ottawa, 1975, p.24.

[79]The basic principle being that the trial of a crime shall take place in the county or district where the offence was committed.

trials and thus they are often found guilty in absentia. Although some courts go on circuit the problems remain quite serious.[80]

Many people stress the need of the First Nations to have control over certain infractions in their communities. One example was developed by the Roseau River First Nation in Manitoba in 1975. In this case native youths were given the choice of appearing before the regular court or before the tribal justice committee comprising band officers and respected band members. The Roseau River programme emphasized traditional values resulting in increased morale and participation within the system and an apparent decrease in the number of offences committed.

Despite such an approach, many feel that the only solution consists of "separate, autonomous constitutionally entrenched native systems, traditional or otherwise."[81]

Even the concept of tribal courts, as seen in the United States, are not without some complications. The main criticism of tribal courts is the continued imposition of non-native law instead of traditional tribal values resulting in pressure for assimilation upon the native people involved.[82] Although prejudice can be seen occurring against native people in the regular courts, there is the criticism of native courts that they rarely take into account native values and exhibit their own prejudices based on clan or family affiliation, purity of native blood, political and social position. Furthermore it is claimed by some that tribal court judges in the United States are not highly paid or respected in the community and are subject to dismissal by the tribal council. This situation, it is argued, results in a high turnover of native court judges.[83]

Yet overall, the experience in the United States has been seen as a success. It is argued that as native persons become more educated in traditional native values, the tribal courts will experience a resurgence of traditional values and methods.[84] Furthermore it is submitted by many that native values are best understood and translated into legal principles by native courts and judges.

The Alberta Board of Review recommended the following regarding the sittings of courts in particular:

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[80]J. Sissons, Judge of the Far North: Memoirs, McClelland and Steward, Toronto, 1968, p.66.

[81]B.A. Keon-Cohen, "Native Justice in Australia, Canada, and the U.S.A.: A Comparative Analysis", Canadian Legal Aid Bulletin, Vol. 5, 1982, p.253.

[82]S.J. Brakel, American Indian Tribal Courts, American Bar Foundation, Chicago, 1978, p.17.

[83]Ibid., p.18.

[84]R.B. Collins, R.W. Johnson and K.I. Perkins, "American Indian Courts and Tribal Self-Government", American Bar Association Journal, 1977, p.812.

(a) Where practicable, Provincial, Family and Juvenile sittings should be held on Indian reserves when those reserves are not easily accessible to centres in which sittings are held.

(b) A programme involving the training and appointment of Indian Justices of the Peace with limited jurisdiction should be implemented on a trial basis.

(c) A special office should be created in the Department of the Attorney-General to provide liaison between native people and the Provincial, Family and Juvenile court systems. A function of this office would be to organize seminars involving the participation of native people with respect to the administration of justice. Another duty of this office should be co-operation with the agency responsible for the implementation of this Report.

The Royal Commission on the Donald Marshall Jr. Prosecution recommended the establishment of "a community-controlled Native Criminal Court... as a five-year pilot project". This court would be optional for native people and the court would apply the same law that applies to other Canadians, it not being intended to operate as a separate system of law. This recommendation does not rule out the possibility of native law being incorporated into the court over time. The Commission also recommended the establishment of an Institute of Native Justice to:

(a) channel and co-ordinate community needs and concerns into the Native Criminal Court;

(b) undertake research on native customary law to determine the extent to which it should be incorporated into the criminal and civil law as it applies to native people;

(c) train courtworkers and other personnel employed by the Native Criminal Court and the regular courts;

(d) consult with Government on native justice issues;

(e) work with the Nova Scotia Barrister's Society, the Public Legal Education Society and other groups concerned with the legal information needs of native people; and

(f) monitor the existence of discriminatory treatment against native people in the criminal justice system.

The Royal Commission provides some hope however that the desire for native courts may become a reality when it states:

> "the historical and cultural justification
> for establishing [a] Native justice system

> must override the fear of problems which may arise."[85]

Future development will depend on

> "the will of the Micmac people and their leaders to move in this direction; the political will of the Federal and Provincial Governments to resolve outstanding issues and to support the development of the proposal; the establishment of a body to do the required development work; and the establishment of a tripartite forum...for the discussion and negotiation of a Micmac justice system."[86]

In the final assessment, only aboriginal justice systems utilizing native values are likely to be acceptable to the First Nations in Canada.

D. Lawyers

It is trite to say that the Canadian criminal justice system is based upon the adversarial values of the common law system. It is also fairly obvious that, in such a system, the role of the lawyer as advocate is paramount in ensuring that the rights and privileges of the accused are guaranteed. It is sometimes said:

> "The defence of any Indian client is, from a legal point of view, generally no different than that of any other client charged with the same offense."[87]

But this view has been challenged because it ignores the cultural and linguistic differences that usually exist between the native accused and non-native lawyer. These linguistic and cultural differences require the use of a native courtworker or interpreter to familiarize the Euro-Canadian lawyer with the cultural background of the client.[88]

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[85]Royal Commission of Inquiry into the Donald Marshall Jr. Prosecution, op. cit., p.169

[86]Ibid.

[87]W.T. Badcock, "Representing the Indian Defendant: The Role of the Lawyer", Canadian Legal Aid Bulletin, Vol. 5, 1982, p.151.

[88]C.T. Griffiths (ed.), Circuit and Rural Court Justice in the North: The Northern Conference, Conference and Simon Fraser University, Burnaby, B.C., 1984, pp.1-27.

The linguistic and cultural differences result in native people being shy and fearful in a foreign environment and they are often unfamiliar with legal concepts such as legal guilt or innocence and unaware of the possibilities of a legal defence to the act committed. The perception of many native people is that lawyers are another tool of the dominant society's judicial system which is accentuated when the lawyer arrives in remote communities with the Crown attorney and the judge.[89] One preferred solution is, of course, to have more First Nations persons become lawyers.[90]

E. Native Courtworkers

The existence of native courtworkers is seen as a positive step in the provision of legal advice and acclimatization of native people within the criminal justice system and their proliferation is often seen as the next step in a generally positive initiative. It is seen that the native courtworkers improve the native accused's perception of the criminal justice system and reduce feelings of social and cultural alienation. The police in Alberta have expressed satisfaction with the role native courtworkers have had in assisting in police investigations. Native courtworkers have also been invaluable in providing service to defence counsel, for example, in interpreting words and concepts.

There has been some criticism of the native courtworker system. One was levelled at the programme on the basis that the services of native courtworkers were not available immediately upon arrest, when the accused required an explanation of his rights and that the service was not available at all in some of the more remote areas. Thus the level of services, not the concept itself, was criticized. J.C. Hathaway, however, in Native Canadians and the Criminal Justice System, argues that the scarce resources would be better spent in training existing justice personnel about the native people rather than employing native courtworkers per se. This view is not, however, universally held.

The Alberta Board of Review made the following recommendations:

(a) To the extent that it has not yet been done, Native Counselling Services should take appropriate steps to deal with the criticisms of its operations enumerated [in the report of the board] above.

(b) Suitable office facilities should be provided for native courtworkers: (1) in the Provincial Courthouses in Edmonton and Calgary (2) in all Courthouses serving areas in which there is substantial native population (3) in the Edmonton and Calgary Remand Centres.

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[89]J. Coldrey and F. Vincent, "Tales From the Frontier: White Laws-Black People", Legal Services Bulletin, Vol. 5, 1980, p.221.

[90]The Native Law Program at the University of Saskatchewan encourages growth in the number of native lawyers.

(c) Consideration should be given to the plans of Native Counselling Services for the expansion of the Liaison Officer Programme.

(d) The services of Native Counselling Services should be utilized to the fullest extent in all areas in which native people are involved in the administration of justice.

(e) The salary of native courtworkers should be reviewed so as to bring them in line with the salary scales of Native Liaison Officers I, Social Service Technicians and Social Workers I.

F. Corrections

The disproportionate numbers of native people in correctional facilities has had a devastating effect upon the communities from which they come. The statistics indicating the rate of incarceration of native persons is shocking. Unreported statistics of the Ontario Ministry of Correctional Services show that native Canadians are disproportionately imprisoned for fine default as a result of being among the poorest in Canada. The statistics collected by the Ministry show that 31% of admissions to provincial institutions in Ontario in 1987-88 were for fine default and 59% of these admissions were for provincial offences. Of the 5,172 admissions to prison of native people, 47% were admitted for defaulting on payment of a fine. Of these 2,411 native people who defaulted, 74% of them had defaulted in the payment of fines for violations of provincial legislation. In the year 1987-88 this amounted to 1,775 native people admitted for failure to pay fines under provincial legislation.

In contrast, non-native people constituted 39,520 admissions, 11,497 of which were for fine default. This 20% figure is in contrast to the 47% of natives admitted for non-payment of fines. Approximately 55% or 6,382 of those admitted for default of fine payment involved provincial offences in contrast to the 74% figure cited for similar native incarceration. It quickly becomes obvious that native people are incarcerated at a higher rate than non-native people for the non-payment of fines. Although it cannot be seen whether the non-payment occurs due to an inability to pay or a lack of a desire to pay, one commentator noted:

> "Until such time as comprehensive studies are conducted in relation to fine defaulters, criticism levied against the fine and imprisonment for default seem unanswerable. It seems that society may be imprisoning both those who wilfully refuse to comply with the sentence of the court and those who are incapable of complying with the sentence of the court."[91]

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[91]Simon Verdun-Jones and Theresa Mitchell-Banks, The Fine as a Sentencing Option in Canada, Ministry of Supply and Services, Ottawa, 1988.

It is clear that inequities in the system exist, resulting in a disproportionate number of native-Canadians being imprisoned for the non-payment of fines. It reduces respect for the Canadian justice system when native people are needlessly imprisoned for non-payment of fines when many of them live in poverty. It is suggested by some that alternative measures, such as increased community service, be imposed rather than a fine that an individual may be unable to pay.

The main criticisms of native people and commentators on the correctional system, as it relates to native people, is the fact that native people have little, if any, input into the way that native offenders are treated. Many are calling for increased involvement by the native community. The expansion of existing programmes such as visits from native community organizations and the creation of new programmes involving native-oriented activities are recommended by some within the Ontario Ministry of Correctional Services.[92] Others have suggested that the First Nations communities should take a more active role in the area of parole supervision. Parole services for native persons should be used more often through

> "more flexible parole conditions and more extensive use of suitable individuals, members of band councils and government personnel, to provide parole supervision, especially in rural and remote areas."[93]

As in most cases the offender who is released on parole will return to live in the community from which he or she originated and therefore it is necessary to determine under what conditions the community is willing to have the offender return to the community. The conditions under which such a return might be regarded as acceptable might differ greatly from one native community to another.[94]

There are also suggestions that there be more emphasis placed on treating native people within their own communities, such as have been implemented in Australia.[95] This is a logical step as it is the reality that for many native offenders a re-adjustment to life in their home communities will be required.

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[92]M.J. Irvine, The Native Inmate in Ontario, Ministry of Correctional Services Ontario, Toronto, 1978, pp.17-18.

[93]Dr. G.C. Monture (Chair), Indians and the Law, Canadian Corrections Association, Ottawa, 1967, p.50.

[94]B. Koffler, Some Problems of Native Canadians, Research Council on Civil Disorders, Ottawa, 1975, p.4.

[95]D. Gunter, "Policing in some Aboriginal Communities" in B. Swanton (ed.), Aborigines and Criminal Justice, Australian Institute of Criminology, Phillip, 1984, p.104

There is also evidence that native cultural programmes are not accorded the same respect as other programmes by correctional officials and thus some have recommended that the Parole Service and the Parole Board recognize native cultural programmes as legitimate rehabilitative programmes for the purposes of parole consideration. Furthermore, it has been recommended that Correction Services Canada recognize the position of native Elder within the correctional system, allowing for sufficient authority, independence and flexibility.[96]

Conclusion

This section has attempted to outline the views of various writers on native people and the criminal justice system. Although an attempt has been made to canvass a wide variety of sources cannot be considered a complete synthesis of the government and scholarly writings that exist on this complex problem. In conclusion, it appears to many that progress of any kind will only come about when the people of the First Nations have recognition of their right to control important aspects of their lives which must include control of the criminal justice system on their own reserves and communities. We feel that our Report confirms this and goes further in tying the sovereignty questions securely to the underlying issues of viable land bases and reasonable economic development-decisions in which the First Nations people participate, as of right, when their traditional lands are involved.

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[96]D. McCaskill, Patterns of Criminality and Correction Among Native Offenders in Manitoba: A Longitudinal Analysis, Correctional Service of Canada, Saskatoon, 1985, p.121.

2. TERMS OF REFERENCE

WHEREAS the Osnaburgh Indian Band, through its Chief and Council, the Windigo Tribal Council, through its Chairman, and the Government of Ontario, through the Attorney General and the Minister Responsible for Native Affairs and the Solicitor General collectively referred to as "the Parties" have agreed to establish a committee to study and to make recommendations to improve the delivery of services related to the administration of justice, policing and related services, in the Windigo Tribal Council area, the Town of Pickle Lake and in the Southern Windigo Tribal Area including the communities of Saugeen, Cat Lake and Slate Falls:

1. There shall be established the Osnaburgh Windigo Tribal Council Justice Review Committee ("the Committee").

2. The Committee shall consist of the following members:

   - One member to be nominated by the Osnaburgh Indian Band Council (by Band Resolution) and by the Windigo Tribal Council (by Resolution of the Council);

   - One member to be nominated by the Ontario Government;

   - One member to be agreed to by the Osnaburgh Band/Windigo Council and the Province of Ontario, or in the alternative by the members (as selected above); and

   - The members can choose their chairperson from amongst themselves.

3. The Committee shall report to the Parties no later than July 31, 1990. It may provide interim reports to the Parties, or any of them as it sees fit.

4. The Committee may appoint research associates who may conduct research from time to time as required by the Committee. Such research may include but shall not be limited to the following:

   - the organization and delivery of police services and the alternatives thereto in the Osnaburgh/Southern Windigo Tribal Council Area;

   - the organization and delivery of judicial services and the alternatives thereto in the Osnaburgh/Southern Windigo Tribal Council Area;

   - the organization and delivery of legal and paralegal services and the alternatives thereto in the Osnaburgh/Southern Windigo Tribal Council Area;

   - the organization and delivery of social services that are directly linked to the administration of justice with particular reference

to juvenile services and the alternatives thereto in the Osnaburgh/Southern Windigo Tribal Area.

5. The members of the Committee may appoint, from time to time, associate members of the Committee to review specific topics. For greater specificity, the members of the Committee may request the appointment o a Federal Government representative to comment upon the provision of police services on the Reserve lands, and of a representative of the Town of Pickle Lake to comment upon any matters which involve the Town.

6. Meetings of the Committee shall be held at locations to be determined by the Committee, but shall include meetings at the Osnaburgh Indian Reserves and in the communities within the Southern Windigo Tribal Council region.

7. The objectives of the Committee are:

- to review the administration of justice in the Osnaburgh/Southern Windigo Tribal Council Area; and

- to review and recommend improvements to the delivery of justice services in the Osnaburgh/Southern Windigo Tribal Council Area.

8. The mandate of the Committee is:

- to examine all aspects of past and present service delivery to Osnaburgh and the south Windigo communities in relation to policing and the administration of justice and related social services; and

- to make recommendations to the government of Ontario with respect to improved service delivery and co-ordination to Osnaburgh, and the south Windigo communities in relation to policing, the administration of justice and related social services.

9. Administration

The Attorney General for Ontario and the Solicitor-General for Ontario shall establish the Committee and shall undertake all costs of the operation of the Committee, in accordance with a budget to be agreed upon by the parties in consultation with the Committee.

3. PERSONS AND ORGANIZATIONS CONSULTED

Date	Consultation
Jan. 5, 1989	Opening session with Attorney General, Solicitor General, Chairman, Windigo Tribal Council and Chief, Osnaburgh First Nation
Jan. 30, 1989	Osnaburgh First Nation Chief, Councillors and Band Members
Jan. 31, 1989	Pickle Lake Reeve and Council Members
Jan. 31, 1989	Savant Lake Chief and Band Members of New Saugeen First Nation
Feb. 1, 1989	Osnaburgh First Nation Talk on Band Radio with Band Members
Feb. 9, 1989	Thunder Bay Consultation with representatives of the Ministry of Attorney General, O.P.P., Osnaburgh First Nation and Windigo Tribal Council on the Shingebis case.
Feb. 15, 1989	Cat Lake First Nation Chief, Councillors and Band Members
Feb. 16, 1989	New Slate Falls First Nation Chief, Councillors and Band Members
Feb. 22, 1989}	Indian and Northern Affairs Canada
Mar. 10, 1989}	Ontario Region, Toronto Background information on First Nations communities
Mar. 14, 1989	O.P.P. First Nations and Contract Policing Branch
Mar. 20, 25, 26, 1989	Royal Commission into Aboriginal Deaths in Custody -- Sydney, N.S.W. Australia, Commissioner
May 5, 1989	Ministry of the Attorney General Senior Policy and Programme Adviser
May 12, 1989	Chief Judge, Provincial Court (Criminal Division)
June 28, 1989	Judge, Provincial Court (Criminal Division) with Northern Ontario experience with First Nations

June 29, 1989	Sioux Lookout Ministry of Natural Resources Conservation Officers
June 30, 1989	Sioux Lookout Defence counsel with experience in Northern Ontario
Oct. 16, 17, 1989	Osnaburgh First Nation Chief, Councillors and Band Members
Oct. 18, 1989	Savant Lake Chief, Councillors and Band Members of New Saugeen Nation
Oct. 23, 1989	Slate Falls First Nation Chief, Councillors and Band Members
Oct. 24, 25, 1989	Cat Lake First Nation Chief, Councillors and Band Members
Oct. 26, 1989	Sioux Lookout Chief, Osnaburgh First Nation; Chief, New Saugeen First Nation; Chairman, Windigo Tribal Council; Counsel, Windigo Tribal Counsel; Grand Chief, Nishnawbe-Aski Nation; Director, Tikinagan Child and Family Services; Independent First Nations Alliance; Chairman, Shibogama Area Tribal Council; Nishnawbe-Gamik - Courtworkers
Nov. 4, 1989	Interviews with Committee members broadcast in Ojibway on Wawatay T.V. in Northern Ontario.
Nov. 20, 1989	O.P.P. - Northwest Patrol personnel District Superintendent, O.P.P.
Nov. 21, 1989	Sioux Lookout O.P.P. -- Sioux Lookout personnel District Superintendent, O.P.P.
Nov. 21, 1989	Sioux Lookout -- Women in Crisis representative
Nov. 21, 1989	Indian and Northern Affairs -- District Office personnel
Nov. 22, 1989	Sioux Lookout Ministry of Community and Social Services -- Probation Services personnel Ministry of Correctional Services -- Probation and Parole personnel
Nov. 23, 1989	Sioux Lookout National Health and Welfare -- Zone Hospital and Mental Health Services personnel

Dec. 5, 1989	Thunder Bay Regional Crown Attorney and Crown Attorney's office personnel
Dec. 5, 1989	Judge, Provincial Court (Criminal Division), with experience in Northern Ontario with First Nations
Dec. 6, 7, 1989	Pickle Lake and Central Patricia O.P.P. personnel, District Superintendent, O.P.P.
Feb. 7, 1990	Ontario Native Women's Association representatives
May 15, 1990	Kenora O.P.P. District Headquarters personnel
May 16, 1990	Kenora Ministry of Correctional Services -- District Gaol personnel -- Adult and Phase II Youth -- Secure Custody Ministry of Community and Social Services Youth Detention facility personnel, Phase I Youth -- Secure Custody
May 17, 1990	Ministry of Community and Social Services -- Phase I - Community corrections personnel
May 17, 1990	Defence counsel, Kenora
July 16-19, 1990	Final consultation round with Osnaburgh, Cat Lake, New Slate Falls and New Saugeen Nations at their reserves and communities including presentation in English and Syllabics of the Draft Recommendations for further comment

4. ORGANIZATIONS SUBMITTING WRITTEN BRIEFS

- Independent First Nations Alliance
- New Saugeen Nation
- Nishnawbe-Aski Nation
- Ontario Native Women's Association
- Tikinagan Child & Family Services
- Windigo Tribal Council

5. ADDITIONAL DOCUMENTATION WAS SUPPLIED BY THE FOLLOWING

- Department of Indian Affairs and Northern Development
- Indian Commission of Ontario
- Ministry of the Attorney General
- Ministry of Community and Social Services
- Ministry of Correctional Services
- Ministry of Natural Resources
- Nishnawbe-Gamik
- Ontario Provincial Police; First Nations and Contract Policing Branch; Kenora District Office; Pickle Lake Detachment
- Ontario Native Council on Justice
- Osnaburgh First Nation

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The members of the Committee would also like to thank Janet Weishar for her assistance in typing the Report and making all of the Committee's travel arrangements.

AFTERWORD

"The solution, really the solution to violence, is long-term job opportunities. It's economic. If I had my career to do over again, which I don't, I just might have studied economics or business. That's where the action is. Economics keeps people employed."

Dr. Clare Brant
Psychiatrist
A Mohawk from Tyandinaga Reserve, Ontario

In a seminar for the Office of the Crown Attorney, Kenora "Indian Thinking, Indian Ways", January 28, 29, 1988.

THE COMMUNITIES OF THE SOUTH WINDIGO TRIBAL COUNCIL AREA